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Friday
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Highlights

Briefings on How To Use the Federal Register—For details on the resumption of briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

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Highlights

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Presidential Documents

Title 3—

The President

Proclamation 4793 of September 17, 1980

Increase in the Rate of Duty for Certain Textile Articles From the European Communities

By the President of the United States

A Proclamation

1. On February 20, 1980, the European Communities announced the imposition of quotas, under Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A 58; 8 UST (pt. 2) 1786), on polyester filament yarn and polyamide (nylon) carpet yarn, imported into the United Kingdom on or after January 1, 1980. These quotas apply to exports from sources including the United States but exclude certain other countries.

2. On March 10, 1980, pursuant to Article XIX:2 of the GATT, the United States and the European Communities entered into consultations on this issue. These consultations have been suspended. The United States took note of certain trade liberalizing measures taken by the European Communities. An understanding has also been reached between the United States and the European Communities concerning the impact on the trade of the United States of excluding the products of certain other countries from the quotas. The quotas imposed by the European Communities are scheduled to expire on December 31, 1980. The actions taken to date by the European Communities including the above-mentioned liberalizing measures and the understanding, would not constitute adequate compensation if the quotas are extended beyond December 31, 1980.

3. Section 125(d) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2135(d)) authorizes the President, following public hearings, to withdraw, suspend, or modify the application of trade agreement obligations of the United States which are substantially equivalent to those which have been withdrawn, suspended or modified by a foreign country or instrumentality, or to proclaim under section 125(c) of the Trade Act (19 U.S.C. 2135(c)) such increased duties or other import restrictions as are appropriate to effect adequate compensation from that foreign country or instrumentality. Public hearings on possible modification or suspension of concessions to the European Communities were held on April 3, 1980, at the Office of the United States Trade Representative.

4. I have decided, pursuant to section 125(c) of the Trade Act to increase the duty on the textile articles listed in the Annex to this proclamation, the product of any member country of the European Communities, effective January 1, 1981, if the aforementioned import restrictions are extended by the European Communities beyond December 31, 1980, without providing adequate compensation.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 125 and 604 of the Trade Act (19 U.S.C. 2135 and 2483), and in accordance with Article XIX of the GATT do proclaim that:

(1) Subpart D, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is modified as set forth in the Annex to this proclamation.

(2) This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1981,

unless the United States Trade Representative (USTR) determines that the quotas imposed by the European Communities, the subject of this proclamation, have terminated or will terminate prior to January 1, 1981, or that adequate compensation has been provided by the European Communities. If the USTR makes such a determination (published in the **Federal Register**), the modifications to the TSUS made by this proclamation shall not take effect.

3. Conforming modifications shall be made to Part I of Schedule XX to the GATT when the actions set forth in the Annex to this proclamation become effective.

(4) The TSUS, as modified by the Annex to this proclamation, shall be further modified as required by section C of Annex II to Proclamation No. 4707 of December 11, 1979, effective as to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1982.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of September, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

ANNEX

Subpart D, part 2 of the Appendix to the TSUS (19 U.S.C. 1202) is modified --

(1) by adding the following new headnote 2:

"2. The term "Products of the European Communities" refers to products of the member states of this instrumentality which includes the Governments of Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom.";

and

(2) by adding the following new items, in numerical sequence:

Item	Articles	Rates of Duty 1	Rates of Duty 2	Effective Period
"	Products of the European Communities:			
947.52	Yarns, wholly of non-continuous man-made fibers (provided for in items 310.40 and 310.50).....	20% ad val.	No change	On or after 1/1/81
947.56	Sweaters, of wool (provided for in items 380.59, 380.61, 382.56, and 382.58).....	37.5% ad val.	No change	On or after 1/1/81
947.61	Men's or boys' coats and jackets, of wool, knit (provided for in item 380.61).....	37.5% ad val.	No change	On or after 1/1/81
947.62	Men's or boys' coats and jackets, other than suit-type sports coats and jackets, of wool, not knit (provided for in 380.63 and 380.66).....	37.5% ad val.	No change	On or after 1/1/81
947.65	Women's, girls' and infants' coats, of wool (provided for in items 382.58, 382.60, and 382.63...	37.5% ad val.	No change	On or after 1/1/81
947.66	Skirts, of wool (provided for in items 382.54, 382.58, 382.60, and 382.63).....	37.5% ad val.	No change	On or after 1/1/81

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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 212, 213, 214, and 317

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

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These final regulations, published as interim regulations on December 21, 1979, are issued pursuant to title IV of the Civil Service Reform Act of 1978. They (1) exclude the Senior Executive Service from the definitions of the competitive and excepted services, (2) define the Senior Executive Service and establish the criteria for designating career reserved positions and (3) prescribe conditions on the use of limited emergency and limited term appointments in the Senior Executive Service.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632–6820.

SUPPLEMENTARY INFORMATION: On December 21, 1979 (44 FR 75615) the Office of Personnel Management published interim regulations under 5 CFR Parts 212, 213, 214 and 317 pursuant to title IV of the Civil Service Reform Act of 1978 (CSRA).

The comment period which was for 60 days from the date of publication ended on February 19, 1980. The Office received a number of written comments and phone inquiries with regard to Parts 214 and 317. It did not receive any comments on Parts 212 and 213.

Some of the commentors suggested that the list in § 214.402(c)(1) designating positions in certain occupational disciplines as career reserved be expanded to include other fields such as personnel administration and statistics. The non-inclusion of an occupational discipline under § 214.402(c)(1) does not preclude an agency from designating positions in that discipline as career reserved. In fact, when an agency finds that a particular position meets the criteria of § 214.402(c)(2), it must, as in § 214.402(b)(1), designate that position as career reserved. After reviewing the matter, the Office concludes that the interim regulation on designating positions as career reserved carries out the intent of the CSRA, namely to provide agencies with needed flexibility while at the same time ensuring public confidence in the impartiality of the Government. Accordingly, no change is being made in § 214.402(c).

Another commentor questioned the requirement in § 214.403 for prior approval by OPM before an agency could change a position designation from general to career reserved. Under the CSRA, each agency is required to include in its biennial request for its SES position authorization a justification for any proposed action to change the designation of a position from general to career reserved or from career reserved to general. (See 5 U.S.C. 3133(b)(2).) The requirement in § 214.403 makes the justification and review process an ongoing activity rather than a once-every-two-years project.

Several agencies commented on the provision in § 317.605(d) granting certain limited appointees the right to return to their former positions. Agencies questioned whether guaranteed placement would be appropriate when an individual accepts a limited SES appointment in an agency other than the one in which he or she holds a permanent civil service position. The law does not provide guaranteed placement rights for individuals separated from limited appointments in the SES. Because a limited appointment could, in effect, serve as a "temporary promotion", the Office believes it appropriate to provide for a placement right. Our intent is to grant the placement right only when the limited appointment was an intra-agency action. However, through inadvertance this restriction was not included in the interim regulation. Section 317.605(d) has been revised to include this restriction.

The following sections and subparts of 5 CFR are being issued as final regulations:

Part 212, § 212.101(a)(1)
Part 213, § 213.101(a)
Part 214, Subparts B, C, and D
Part 317, Subpart F

OPM has determined that these are significant regulations for the purposes of E.O. 12044.

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

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

PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

(1) Section 212.101(a)(1) is adopted and reads as follows:

§ 212.101 Definitions.

(a) * * *

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

* * * * *

(5 U.S.C. 2102)

PART 213—EXCEPTED SERVICE

(2) Section 213.101(a) is adopted and reads as follows:

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service.

* * * * *

(5 U.S.C. 2103)

(3) The table of sections of Part 214 is revised to read as follows:

PART 214—SENIOR EXECUTIVE SERVICE

Subpart A—[Reserved]

Subpart B—General Provisions

14.201 Definitions.

Subpart C—Exclusions

214.301 Exclusions.

Subpart D—Types of Positions

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

Authority: 5 U.S.C. 3132.

Subpart A—§ 214.101 [Reserved]

(4) Part 214, Subpart A is revoked and reserved.

(5) Part 214, Subpart B is revised to read as follows:

Subpart B—General Provisions

§ 214.201 Definitions.

For the purposes of this part:

"Agency," "Senior Executive Service position," "career appointee," "limited term appointee," "limited emergency appointee," and "noncareer appointee" have the meanings set forth in section 3132(a) of title 5, United States Code.

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

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

§ 214.202 Authority to make determinations.

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

(b) Agency determinations may be reviewed by the Office of Personnel Management to ensure adherence with law and regulation.

(6) Subparts C and D are adopted, and read as follows:

Subpart C—Exclusions

§ 214.301 Exclusions.

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

Subpart D—Types of Positions

§ 214.401 Types of positions.

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

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

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

§ 214.402 Career reserved positions.

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

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

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

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

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

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

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

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

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

(i) Adjudication and appeals;

(ii) Audit and inspection;

(iii) Civil or criminal law enforcement and compliance;

(iv) Contract administration and procurement;

(v) Grants administration;

(vi) Investigation and security matters; and

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

(2) Career reserved positions also include:

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

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

(d) The Office of Personnel Management may review agency designations of general and career reserved positions. If the Office finds that an agency has designated any position as general that should be career reserved, it shall direct the agency to make the career reserved designation.

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

§ 214.403 Change of position type.

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

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

(7) In Part 317, Subpart F, the table of sections and §§ 317.601 through 317.604 are adopted, and read as follows:

Subpart F—Limited Emergency and Limited Term Appointments

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

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

Subpart F—Limited Emergency and Limited Term Appointments

§ 317.601 Authorization and duration.

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

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

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

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

§ 317.602 Conditions of appointment.

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

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

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

§ 317.603 Selection of limited appointees.

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

§ 317.604 Reassignment of limited appointees.

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

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

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

(8) Section 317.605 is revised to read as follows:

§ 317.605 Tenure of appointees.

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

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

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

(d) An employee:

(1) Who received a limited appointment without a break of service in the same agency as the one in which the employee held a career or career conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the Senior Executive Service, and

(2) Whose limited appointment is terminated for reasons other than misconduct, neglect of duty, or malfeasance, shall be entitled to be placed in his/her former position or a position of like status, tenure, and grade.

[FR Doc. 80-29082 Filed 9-18-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amendment 10]

Tobacco; 1979–80 Average Market Price and 1980–81 Penalty Rate

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

ACTION: Final rule.

SUMMARY: This rule contains the average market price received by producers for the 1979–80 marketing year and the penalty rate that applies to tobacco subject to marketing quota penalty during 1980–81 marketing year. The penalty rate is 75 percent of the previous year market average, as required by Section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7935. The Final Impact Statement describing this final rule is available on request from Harry D. Millner.

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." J. A. Wells, Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, has determined that an emergency exists which warrants publication of this rule without opportunity for public comment because producers, warehousemen, and dealers need to know immediately the 1980–81 marketing year penalty rates for the marketing of excess tobacco, so that production and marketing decisions can be timely made. Since the 1979–80 average market price producers received for the subject tobaccos and the rate of penalty reflect mathematical computations rather than substantive changes, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective upon publication in the **Federal Register.**

Final Rule

Accordingly, 7 CFR Part 724 is amended by deleting paragraphs (c) through (k) of 724.88. A new paragraph (c) is added to § 724.88, to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(c)(1) 1974–80 average market price. The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board for 1974–80 marketing years were:

Average Market Price

Marketing year	Kinds of tobacco	Cents per pound
1974–75	Fire-cured (type 21)	81.7
	Fire-cured (types 22, 23, 24)	93.4
	Dark air-cured	76.9
	Virginia sun-cured	82.1
	Cigar-filler and binder (types 42, 43, 53, 54 and 55).	72.7
	Cigar-binder (types 51 and 52).	82.0
1975–76	Fire-cured (type 21)	93.0
	Fire-cured (types 22, 23, 24)	104.7
	Dark air-cured	89.8
	Virginia sun-cured	85.5
	Cigar-filler and binder (types 42, 43, 53, 54 and 55).	73.1
	Cigar-binder (types 51 and 52).	92.7
1976–77	Fire-cured (type 21)	118.0
	Fire-cured (types 22, 23, 24)	142.2
	Dark air-cured	116.6
	Virginia sun-cured	105.0
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	72.8
	Cigar-binder (types 51 and 52).	89.6
1977–78	Fire-cured (type 21)	96.3
	Fire-cured (types 22, 23, 24)	125.6

Average Market Price—Continued

Marketing year	Kinds of tobacco	Cents per pound
	Dark air-cured	116.6
	Virginia sun-cured	100.0
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	82.8
	Cigar-binder (types 51 and 52).	121.3
1978–79	Fire-cured (type 21)	94.5
	Fire-cured (types 22, 23, 24)	113.6
	Dark air-cured	100.8
	Virginia sun-cured	88.8
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	96.1
	Cigar-binder (types 51 and 52).	144.9
1979–80	Fire-cured (type 21)	107.9
	Fire-cured (types 22, 23, 24)	115.2
	Dark air-cured	111.7
	Virginia sun-cured	90.8
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	114.9
	Cigar-binder (types 51 and 52).	155.5

(2) 1975–81 rate of penalty per pound. The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1975–81 marketing years shall be:

Rate of Penalty

Marketing year	Kinds of tobacco	Cents per pound
1975–76	Fire-cured (type 21)	61
	Fire-cured (types 22, 23, 24)	70
	Dark air-cured	58
	Virginia sun-cured	62
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	55
	Cigar-binder (types 51 and 52).	(1)
1976–77	Fire-cured (type 21)	70
	Fire-cured (types 22, 23, 24)	79
	Dark air-cured	67
	Virginia sun-cured	64
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	55
	Cigar-binder (types 51 and 52).	(2)
1977–78	Fire-cured (type 21)	89
	Fire-cured (types 22, 23, 24)	107
	Dark air-cured	87
	Virginia sun-cured	79
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	55
	Cigar-binder (types 51 and 52).	(3)
1978–79	Fire-cured (type 21)	72
	Fire-cured (types 22, 23, 24)	94
	Dark air-cured	87
	Virginia sun-cured	75
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	62
	Cigar-binder (types 51 and 52).	(4)
1979–80	Fire-cured (type 21)	71
	Fire-cured (types 22, 23, 24)	85
	Dark air-cured	76
	Virginia sun-cured	67
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	72
	Cigar-binder (types 51 and 52).	(5)
1980–81	Fire-cured (type 21)	81
	Fire-cured (types 22, 23, 24)	86
	Dark air-cured	84

Rate of Penalty—Continued

Marketing year	Kinds of tobacco	Cents per pound
	Virginia sun-cured	68
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	86
	Cigar-binder (types 51 and 52).	117

[1] Quotas terminated for 1975 crop.
[2] Quotas terminated for 1976 crop.
[3] Quotas terminated for 1977 crop.
[4] Quotas terminated for 1978 crop.
[5] Quotas terminated for 1979 crop.

Authority: Sec. 301, 313, 314, 316, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995, sec. 401, 63 Stat. 1505, as amended, sec. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e), 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372–1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590p(e)).

Signed at Washington, D.C. on September 10, 1980.

Bill Cherry,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–28650 Filed 9–18–80; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 271]

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 21–27, 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 21, 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 16, 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 has improved.

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.

§ 910.571 Lemon Regulation 271.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 21, 1980, through September 27, 1980, is established at 200,000 cartons.

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

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

Dated: September 18, 1980.

D. S. Kuryloski

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

[FR Doc. 80–29275 Filed 9–18–80; 12:08 pm]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Final Rulemaking Regarding Amendments To Test Procedures for Furnaces

AGENCY: Department of Energy.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors made in the final rulemaking regarding amendments to test procedures for furnaces in FR Doc. 80–24188 appearing at and following page 53714 of the August 12, 1980 **Federal Register.**

FOR FURTHER INFORMATION CONTACT: James A. Smith, Department of Energy, Forrestal Building, Room GH–065, Mail Station GH–068, 1000 Independence Avenue, S.W., Washington, D.C. 20585. (202) 252–9127.

SUPPLEMENTARY INFORMATION: Upon careful review of the **Federal Register** publication of the final amendments to the test procedures for furnaces, a number of typographical and editorial errors were found in five amendment items. In all other respects the final rule remains as published on August 12, 1980.

In consideration of the foregoing, the final regulation regarding amendments to test procedures for furnaces published in 45 FR 53714 et seq. (August 12, 1980) is corrected as set forth below.

Issued in Washington, D.C., September 12, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

Amendments number 10, 19, 25, 44, and 53a are corrected to read as follows:

* * * * *

10. Section 2.4.1 of Appendix N to Subpart B is amended to read as follows:

2.4.1. Gas burner adjustments (not including condensing furnaces). Adjust burners of gas-fueled furnaces or boilers such that the Btu's per hour input, as measured during the steady state performance test described below and corrected to standard conditions of 60° F and 30 inches of mercury barometric pressure, is within ±2 percent of the nameplate input rating. Set the primary air shutters in accordance with the manufacturer's recommendation to give a good flame at this adjustment. If, however, the setting results in the deposit of carbon during any test specified herein, the tester shall adjust the shutters and burners until no more carbon is deposited and shall perform the tests again with the new settings. After the steady state performance test has been started, do not make additional adjustments to the burners during the required series of performance tests specified in section 3.0 of this appendix.

If a vent limiting means is provided on a gas pressure regulator, keep it in place during all tests.

* * * * *

19. Section 2.9 of Appendix N to Subpart B is amended to read as follows:

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5°F (+2.8 C) of the value T_{RA} measured at the end of the steady state performance test. During these tests, the room temperature may not exceed 100°F (37.8 C) or fall below 65°F (18.3 C) for noncondensing furnaces and boilers and condensing boilers and may not exceed 80°F or fall below 65°F for condensing furnaces. Room temperature (T_{RA}) shall be the arithmetic average temperature of the test area, determined by measurement with four No. 24 AWG iron-constantan bead-type thermocouples with junctions shielded against radiation, located approximately at 90-degree positions on a circle circumscribing the furnace or furnace enclosure under test, in a horizontal plane approximately at the vertical midpoint of the appliance or test enclosure, and with the junctions approximately 24 inches from sides of the furnace or test enclosure and located so as not to be affected by other than room air. The temperature of the air for combustion and the air for draft relief shall not differ more than ±5°F from room temperature as measured above.

* * * * *

25. Appendix N to Subpart B is amended by adding a new section 3.1.3 to read as follows:

3.1.3 Gas- and oil-fueled condensing furnaces and boilers. The furnace or boiler shall be set up as specified in sections 2.1, 2.2, 2.3, and 2.6. Begin the test by operating the burner and circulating air blower or water pump for hot water boilers, with the adjustments specified in 2.4 and 2.5, until steady state conditions are obtained as indicated by a temperature variation in their successive readings taken 15 minutes apart of not more than 1°F (0.57°C) in the flue gas temperature and the supply (outlet) water temperature.

Measure the room temperature (T_{RA}) as described in section 2.9, and measure the steady state flue gas temperature ($T_{F,SS}$) using the thermocouple grid described in section 2.6. A sample of the flue gas shall be secured in the plane of temperature measurement or within 3.5 feet of this plane on the downstream side and analyzed to determine the concentration by volume of CO_2 ($X_{CO2,F}$) present in the dry flue gas. If the location of sampling the CO_2 differs from the temperature measurement plane, care should be taken to assure that there are no air leaks in the flue pipe between these two locations.

The steady state heat imput rate (Q_{in}), including pilot gas input if appropriate, shall be determined by multiplying the measured higher heating value of the test fuel by the measured steady state imput rate. If gas is the fuel used, correct the imput rate to standard conditions of 60°F and 30 inches of mercury using measured values of gas temperature and pressure at the meter and the measured barometric pressure.

Measure the steady electric power to the burner (PE), if appropriate. For furnaces, measure the steady state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of BE = 0.13 kw. Record all measured values.

* * * * *

44. Appendix N to Subpart B is amended by changing section 4.2.32 to read as follows:

4.2.32 Latent heat loss coefficient (C_L). For condensing furnaces, and for part load and steady state conditions, calculate the latent heat loss coefficient expressed as a decimal and defined as:

for part load conditions

$$\text{If } P_V > P_V^S \qquad C_L = \frac{P_V^S}{P_V} \times \frac{14.7 - P_V}{14.7 - P_V^S}$$

$$\text{If } P_V \leq P_V^S \qquad C_L = 1.0$$

for steady-state conditions

$$\text{If } P_V > P_V^{S,ss} \qquad C_L' = \frac{P_V^{S,ss}}{P_V} \times \frac{14.7 - P_V}{14.7 - P_V^{S,ss}}$$

$$\text{If } P_V \leq P_V^{S,ss} \qquad C_L = 1.0$$

where:

$$P_V = \frac{M_{FG}}{M_V} \times \frac{m_v}{m_{FG}} \qquad (14.7)$$

is the water vapor partial pressure that would be in the flue gases if there were no condensation and the atmospheric pressure were equal to 14.7 psia.

14.7 = standard atmospheric pressure in psia.

M_v = 18, is the approximate molecular weight of water.

M_{FG} =
29.0 for No. 1 and No. 2 fuel oil
28.0 for natural gas
27.5 for manufactured gas
28.5 butane and propane, are the approximate apparent molecular weights of flue gases for different fuels.

$$m_{FG} = 1 + \left[(A/_F)\ (R_{T,F})\right]$$

is the weight of flue gases generated per unit weight of fuel burnt.

$$m_v = \frac{(HHV_A)\ (L_{L,A})}{(100)\ (1053.3)}$$

is the weight of water vapor generated per unit weight of fuel burnt.

(HHV_A) as defined in 4.2.5

$(L_{L\cdot A})$ as defined in 4.2.5

$(A/_f)$ as defined in 4.2.5

$(R_{T\cdot F})$ as defined in 4.2.5

(1053.3) is assumed latent heat/lb. of water

P_v^* = saturated vapor pressure determined from Table 5 at average flue gas temperature $T_{F\cdot ON}$.

$P_v^{S\cdot SS}$ = saturated vapor pressure determined from Table 5 at average flue gas temperature at full-load steady-state operation $T_{F\cdot SS}$.

where:

If the option described in 3.7 is not employed:

$$\frac{T_{F,ON}}{T_{F,SS}} = \frac{\theta_{F,O}}{(t_{ON}/\tau_{ON})}\left[1 - e^{-(t_{ON}/\tau_{ON})}\right]$$

If the option described in 3.7 is employed:

$T_{F\cdot ON} = T_{F\cdot SS}$

where:

$T_{F\cdot SS}$ as defined in 4.2.4.

$\theta_{F\cdot O}$ as defined in 4.2.22.

t_{ON} as defined in 4.2.20.

T_{ON} as defined in 4.2.20.

* * * * *

53a. Appendix N in Subpart B is amended by replacing the existing formula for $E_{F\cdot R}$ to:

$E_{F\cdot R} = (Q_{NF} - Q_F)\ BOH + 8760\ Q_P$

* * * * *

[FR Doc. 80-29064 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6241, 34-17149, 35-21712, 39-584, IC-11354, IA-729, FI-61]

Confidential Treatment Procedures Under the Freedom of Information Act

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule to provide a procedure whereby persons submitting information to the Commission may request that such information not be released in response to a Freedom of Information Act request. The rule is designed to allow such persons to request that the Commission invoke Freedom of Information Act exemptions to protect personal privacy or business confidentiality, or for other reasons recognized by Federal law. The proposed rule has guided the Commission's action in this area since its publication. *See* 45 FR 1627 (Jan. 8, 1980). The Commission is requesting comments on the rule's implementation and it intends to review the rule after approximately one year.

DATES: Effective October 20, 1980. Comments on the rule's implementation and operation must be received on or before October 19, 1981.

ADDRESSES: All communications concerning this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Such communications should refer to File No. 4-229 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Harlan W. Penn, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549. (202) 272-2454.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today adopted a rule, Section 200.83, Subpart D of Part 200, Chapter II, Title 17, Code of Federal Regulations, relating to requests for confidential treatment under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. On December 28, 1979, the Commission proposed the rule for public comment, *see* 45 FR 1627 (Jan. 8, 1980), and the proposed rule has been revised in certain respects to reflect the views of the commentors.

Background

The Securities and Exchange Commission must carefully weigh competing interests in fulfilling its obligations to disclose records to the public under the FOIA while preserving the legitimate confidentiality of the corporations and individuals who submit information to the Commission. The Commission is very sensitive to the concerns of self-regulatory organizations, corporations, and individuals with respect to the confidentiality of records obtained by the Commission. To the extent permitted by law, and consistent with the Commission's responsibilities, the Commission desires to alleviate legitimate concerns and to assure submitters of information that the Commission will seek to preserve the confidentiality of such material against disclosure under the FOIA.

The Commission previously has adopted procedures for granting confidential treatment with respect to documents which, in the normal course of Commission business, would be placed in public files upon their receipt by the Commission. *See* 17 CFR 240.24b-2. Those procedures were adopted in order that the Commission could determine whether or not to grant confidential treatment to such records at the time of receipt.

The rule adopted today creates procedures which will apply to documents for which there is no other specific procedure and which, in the normal course of Commission business, would not be placed in a public file. The Commission would resolve any request for confidential treatment under these new procedures only at such time as a FOIA request is made for the particular documents.

These procedures reflect the Supreme Court's decision in *Chrysler* v. *Brown*, 99 S.Ct. 1705 (1979), in which the Court held that, while other remedies may be available, submitters have no right to *de novo* review under the FOIA of an agency's decision to release purportedly confidential records. As a result of this decision, the Commission is concerned that submitters may not be able to protect their interests without imposing an undue burden upon the Commission's processes. Accordingly, this rule provides procedures for determining a request for confidential treatment. These procedures do not establish substantive criteria for resolving confidential treatment requests. Nor do they affect the responsibility of self-regulatory organizations, corporations and individuals to comply promptly with requests by the Commission or its staff for documents pursuant to the Federal securities laws and rules thereunder. Rather, the procedures are designed to give the Commission the maximum amount of flexibility in determining issues related to confidentiality on a case-by-case basis in accordance with applicable law and an evaluation of the impact of disclosure on the legitimate interests of affected persons, as well as of the Commission's ability promptly to acquire information in the future.

The rule applies to any information obtained by the Commission but not publicly filed; for example, the rule will apply, *inter alia*, to records obtained in the course of Commission inspections and investigations and to records (other than those required to be filed and made publicly available) submitted in connection with the Commission's review of applications or filings. The proposed rule, however, will not affect the applicability of sections of the Federal securities laws or other Federal statutes which either require or authorize the confidential treatment of information on the basis of standards other than those contained in the FOIA,[1] nor are these rules intended to apply in cases where the Commission has rules of specific applicability governing the treatment of specific types of records,[2] or where the Commission establishes other procedures, on an *ad hoc* basis, in connection with a particular study, report or investigation [*see* 17 CFR 200.83(e)(1)]. This rule will supplement the Commission's existing regulations governing the FOIA [*see* 17 CFR 200.80] by establishing procedures which will allow the Commission to ascertain whether a request for confidentiality has been made with respect to material sought under the FOIA and to resolve the request.

[1] *See, e.g.*, Section 210 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–10.

[2] *See* Rule 24b–2 under the Securities Exchange Act, 17 CFR 240.24b–2 (applicable to records filed pursuant to the securities acts, in circumstances where the data filed would otherwise become a part of the Commission's public files, and thus immediately available to anyone upon request); 17 CFR 200.81 (concerning requests made of the Commission's staff for legal advice or opinions).

Significant Revisions in the Rule

The comments generally supported the establishment of procedures for determining whether to treat information as confidential. Many comments, however, expressed concern about particular aspects of the proposed rule. The proposed rule has been modified in response to those concerns and after further study by the Commission and its staff. Significant comments and related revisions are discussed below.

1. A few comments reflected confusion over the purpose and coverage of the proposed rule. The rule has been amended to emphasize that its application is limited to requests that information submitted to the Commission not be disclosed under the FOIA. The Commission intends this rule to provide an opportunity for submitters of information to set forth their views for the Commission's consideration in determining whether to disclose particular records under the FOIA. The rule is not intended to alter the substantive rights of any person to obtain or protect information under the FOIA or any other federal statue or regulation.

2. The proposed rule referred to "documents" or "records" and appeared, in this context, to be too narrow. It is the Commission's intent that the new rule provide an opportunity for confidential treatment to be requested with respect to any type of information submitted to the Commission, including, without limitation, all "records," as defined in section 3(a)(37) and 24(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78c(a)(37) and 78x(a), whether or not that information specifically may be subject to the FOIA as it is presently interpreted. Accordingly, the word "information" has been substituted for the words "document(s)" or "record(s)," except where the context clearly requires reference to records. Since this rule is procedural only, it is unnecessary to consider in this context whether and to what extent various types of information submitted to the Commission become "agency records" within the meaning of the FOIA.

3. Many comments indicated concern that the substantiation for a confidential treatment request proposed to be required at the time the material in question was submitted to the Commission was unduly burdensome. Most comments urged that the Commission should instead require only the submission of a statement requesting confidentiality at the time the Commission received the information and then require prompt substantiation of that request only when a request for the information under the FOIA is received.

The proposed rule reflected the Commission's concern that delaying substantiation of a confidential treatment request might impede the Commission's ability to meet the strict time limits of the FOIA. The FOIA requires that the Commission respond to requests for access to records within ten business days. *See* 5 U.S.C. 552(a)(6)(A)(i). This has proven difficult, especially where extensive files must be examinied to determine if information should be withheld. The Commission believes it essential that persons requesting confidential treatement provide necesary information promptly in order for the Commission to reach timely decisions. Nevertheless, the Commission is persuaded that requiring detailed substantiation at the time the information is submitted may not be necessary. Accordingly, the Commission will not require detailed substantiation of a confidential treatment request under this rule until the information is requested under the FOIA. The Commission intends to review this rule after one year and may amend the rule to reincorporate the prior substantiation requirement if experience indicates that persons requesting confidential treatment cannot provide adequate substantiation of their requests within a time frame consistent with the Commission's obligations under the FOIA or if the Commission is receiving an undue number of nonmeritorius requests for confidential treatment.

If a Commission determination to withhold particular records from disclosure is subject to challenge in court, the Commission must bear the burden of demonstrating that one or more FOIA exemptions are applicable. Thus, in addition to substantiating their requests at the administrative level, submitters of information may be required to assist the Commission in presenting necessary substantiation to the courts. *See, e.g., Vaughn* v. *Rosen*, 484 F.2d 820 (D.C. Cir. 1973).

4. Some comments raised concerns regarding the practicality of requiring a

submitter of information to supply substantiation for a confidential treatment request when that request is made on behalf of another person. This might occur, for example, when a self-regulatory organization submits information to the Commission pertaining to one of its members and that member regards the information in question as confidential. The rule has been amended to provide that, under such circumstances, an initial request for confidential treatment may be made by the submitter on behalf of other persons. If the submitter is unable to substantiate the request, the submitter must so indicate in the initial request and furnish the name and address of the person or persons who can supply substantiation.

5. Some comments questioned the adequacy of the period provided in which submitters of information may appeal an initial determination denying the confidential treatment request to the Commission. In light of the change described in paragraph 3 above, the Commision believes that a ten-day appeal period is ample, since the person requesting confidential treatment will have recently submitted detailed substantiation for that request. Those who are particularly concerned about the adequacy of this period might consider expanding their initial substantiation or otherwise furnishing detailed substantiation in advance of the Commission's receipt of any request under the FOIA for access to the information.

The revised rule does provide for a discretionary extension of the appeal deadline for good cause shown; such extensions will be granted only in exceptional circumstances, however, since the Commission should respond to requests for information in 10 business days. *See* 5 U.S.C. 552(a)(6)(A)(i).

6. Revisions have been made to clarify the procedures for issuance of a Commission order denying a confidential treatment request. Disclosure may occur ten days after notice to the submitter of the denial of the request, but the proposed rule has been amended to provide that the Commission's order denying confidential treatment will be stayed, if within that ten-day period the Commission is notified that the confidential treatment requestor has instituted an action in federal court for review of that decision and for an order preventing disclosure.[3] Some comments suggested that this stay should remain in effect until all court proceedings have been resolved and the rule has been amended accordingly; but, the Commission retains its discretion to dissolve the stay, on its own motion or that of the FOIA requestor, with appropriate notice to be given the confidential treatment requestor.

7. Some comments objected to the proposed exception from the rule's application where the Commission in the future specifies an alternate procedure for requesting confidential treatment in connection with a particular matter. The Commission must retain this provision in order to assure maximum flexibility in responding to the concerns of submitters of information because, in some circumstances, different procedures may be justified. Any such alternate procedures will entail appropriate notice and an adequate opportunity to substantiate confidential treatment requests.

8. Some comments were critical of the provision in the proposed rule which would create a presumption that, where no request for confidentiality has been received, the submitter of the information has waived any interest in urging the Commission to assert an FOIA exemption. The Commission has concluded, however, that this provision should be retained. If the Commission cannot assume that the submitter does not object to the release of records which have not been indicated as confidential, the processing of FOIA requests will be greatly complicated. In any event, such a presumption will not be conclusive; the rule provides that, in appropriate circumstances, the Commission may inquire whether persons to whom information pertains wish to request confidential treatment even where such a request was not initially submitted. The presumption of waiver encourages submitters to request confidential treatment in accordance with the rule when information is furnished to the Commission, but allows the Commission an opportunity to solicit the views of persons who may be affected by public disclosure even where the submitter fails to make such a request.

9. A few comments suggested that the rule be amended to provide that Commission deliberations concerning confidential treatment requests be closed to the public. Although such deliberations typically will be nonpublic, the decision to close a Commission meeting must be made on a case-by-case basis in light of the procedures set forth in the Government in the Sunshine Act, 5 U.S.C. 552b, and the Commission's rules thereunder, 17 CFR 200.400 *et seq.*

10. Some comments expressed concern about the Commission's ability to safeguard confidential information against accidental release. To prevent inadvertent public disclosure, the Commission has modified the rule in two respects. First, where pages of documents submitted are individually marked with a notice that confidential treatment is requested, that marking should include the name of the submitter. Second, in the less preferable instance where records are submitted under a cover sheet prominently marked "Confidential Treatment Requested by [name]," the rule now provides that each of the records as to which confidential treatment is requested should be individually marked with an identifying number and code. For example, in the case where John Doe submits documents with a request for confidentiality and uses the cover page procedure, each of the documents should be marked serially (*e.g.*, "JD–1"; "JD–2"). As an additional assurance against inadvertent disclosure, submitters should be careful to specify in detail the records subject to their confidential treatment request.

11. Some comments urged that the rule define substantive criteria for determining confidential treatment issues. In making case-by-case determinations in this area, the Commission must adhere to the principles set forth in the FOIA and the Commission's rules thereunder, other applicable statutes, and judicial precedents. The information received by the Commission is varied and the need for confidentiality can arise in many circumstances. Thus, and in light of the rapidly developing law in this area, adoption of substantive criteria is premature at this time.

Effective Date of Rule; Request for Additional Comments

The rule will be effective October 20, 1980. The Commission intends to review the rule after approximately one year. Comments received prior to [one year after date of publication in the **Federal Register**], will be considered by the Commission during this review.

Authority

This rulemaking is effected under the authority of the FOIA, 5 U.S.C 552; the

[3] In the Commission's view, federal jurisdiction to review such an order lies in the court of appeals. *See Contintental Stock Transfer and Trust Co.* v. *Securities and Exchange Commission*, 566 F.2d 373 (C.A. 2, 1977) (review by the court of appeals, pursuant to 15 U.S.C. 78y(a), of denial of confidential treatment request under 17 CFR 240.24b–2). *But see Chrysler Corp.* v. *Brown, supra*, 99 S.Ct. at 1725 n.47 (*dicta* indicating jurisdiction to review agency decision to release records under FOIA may be in district court pursuant to 28 U.S.C. 1331).

Administrative Procedure Act, 5 U.S.C. 553; Section 19 of the Securities Act of 1933, 15 U.S.C. 77s; Sections 23 and 24 of the Securities Exchange Act of 1934, 15 U.S.C. 78w, 78x; Section 20 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79t; Section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; Section 38 of the Investment Company Act of 1940, 15 U.S.C. 80a–37; and Section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b–11.

Text of Rule

Subpart D of Part 200 of Chapter II of Title 17, Code of Federal Regulations, is amended by adding § 200.83, to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

§ 200.83 Confidential treatment procedures under the Freedom of Information Act.

(a) *Purpose.* This section provides a procedure by which persons submitting information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does not affect the Commission's right, authority, or obligation to disclose information in any other context. This section is procedural only and does not provide rights to any person or alter the rights of any person under the Freedom of Information Act or any other applicable statute or regulation.

(b) *Scope.* The provisions of this section shall apply only where no other statute or Commission rule provides procedures for requesting confidential treatment respecting particular categories of information (*see, e.g.*, 17 CFR 240.24b–2) or where the Commission has not specified that an alternative procedure be utilized in connection with a particular study, report, investigation, or other matter. The provisions of this section shall not apply to any record which is contained in or is part of a personnel, medical or similar file relating to a Commission member or employee which would normally be exempt from disclosure pursuant to Section 552(b)(6) of Title 5, United States Code.

(c) *Written request for confidential treatment to be submitted with information.* (1) Any person who, either voluntarily or pursuant to any requirement of law, submits any information or causes or permits any information to be submitted to the Commission, which information is entitled to confidential treatment and for which no other specific procedure exists for according confidential treatment, may request that the Commission afford confidential treatment under the Freedom of Information Act to such information for reasons of personal privacy or business confidentiality, or for any other reason permitted by federal law, and should take all steps reasonably necessary to ensure, as nearly as practicable, that at the time the information is first received by the Commission (i) it is supplied segregated from information for which confidential treatment is not being requested, (ii) it is appropriately marked as confidential, and (iii) it is accompanied by a written request for confidential treatment which specifies the information as to which confidential treatment is requested.

(2) Except in the circumstances covered by paragraph (c)(4), all records which contain information for which a request for confidential treatment is made or the appropriate segregable portions thereof should be marked by the person submitting the records with a prominent stamp, typed legend, or other suitable form of notice on each page or segregable portion of each page, stating "Confidential Treatment Requested by [name]." If such marking is impractical under the circumstances, a cover sheet prominently marked "Confidential Treatment Requested by [name]" should be securely attached to each group of records submitted for which confidential treatment is requested. Each of the records transmitted in this manner should be individually marked with an identifying number and code so that they are separately identifiable.

(3) In addition to providing a copy of any written request for confidential treatment required by this section to the Commission personnel receiving the information in question, the person requesting confidential treatment shall also deliver or send by mail a copy of the request (but not the records to which the request applies) to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. The written request shall be clearly and prominently identified on the envelope or other cover and on the top of the first page by the legend "FOIA Confidential Treatment Request" and shall contain the name, address and telephone number of the requestor. The requestor is responsible for informing the Commission promptly of any changes in address or telephone number. In case records submitted are not individually marked "Confidential Treatment Requested by [name]," the written request for confidential treatment should refer to the identifying numbers and codes placed on the records.

(4) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing documents requested in the course of a Commission inspection, it may be impracticable to submit a written request for confidential treatment at the time the information is first provided to the Commission. In no circumstances can the need to comply with the requirements of this section justify or excuse any delay in submitting information to the Commission. Rather, in such circumstances, the person testifying or otherwise submitting information should inform the Commission employee receiving the information, at the time the information is submitted or as soon thereafter as possible, that the person is requesting confidential treatment for the information. The person shall then submit a written request for confidential treatment within 30 days of the submission of the information. Any request for confidential treatment submitted pursuant to this paragraph shall be clearly and prominently identified as provided in paragraph (c)(3) of this section and shall be delivered or sent by mail both to the Commission personnel who received or is known to have custody of the information and to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

(5) Where confidential treatment is requested by the submitter on behalf of other persons, the request should identify those persons and provide the telephone number and address of such person or the responsible representative thereof if the submitter would be unable to provide prompt substantiation of the request at the appropriate time.

(6) No determination as to the validity of any request for confidential treatment will be made until a request for disclosure of the information under the Freedom of Information Act is received.

(d) *Substantiation of request for confidential treatment.*

(1) If it is determined that records which are the subject of a request for access under the Freedom of Information Act are also the subject of a request for confidential treatment under this rule and no other grounds appear to exist which would justify the withholding of the records [*e.g.*, Freedom of Information Act Exemption 7(A), 5 U.S.C. 552(b)(7)(A)], the Commission's Freedom of Information Act Officer promptly shall so inform the person requesting confidential treatment

or, in the case of a request made on behalf of a person other than the submitter, the person identified as able to provide substantiation, by telephone, telegram or express mail and require that substantiation of the request for confidential treatment be submitted in ten calendar days.

(2) Substantiation of a request for confidential treatment shall consist of a statement setting forth, to the extent appropriate or necessary for the determination of the request for confidential treatment, the following information regarding the request:

(i) The reasons, concisely stated and referring to specific exemptive provisions of the Freedom of Information Act, why the information should be withheld from access under the Freedom of Information Act;

(ii) The applicability of any specific statutory or regulatory provisions which govern or may govern the treatment of the information;

(iii) The existence and applicability of any prior determinations by the Commission, other federal agencies, or a court, concerning confidential treatment of the information;

(iv) The adverse consequences to a business enterprise, financial or otherwise, that would result from disclosure of confidential commercial or financial information, including any adverse effect on the business' competitive position;

(v) The measures taken by the business to protect the confidentiality of the commercial or financial information in question and of similar information, prior to, and after, its submission to the Commission;

(vi) The ease or difficulty of a competitor's obtaining or compiling the commercial or financial information;

(vii) Whether the commercial or financial information was voluntarily submitted to the Commission and, if so, whether and how disclosure of the information would tend to impede the availability of similar information to the Commission;

(viii) The extent, if any, to which portions of the substantiation of the request for confidential treatment should be afforded confidential treatment; and

(ix) Such additional facts and such legal and other authorities as the requesting person may consider appropriate.

(e) *Appeal from initial determination that confidential treatment is not warranted.* (1) If it is determined by the Commission's Freedom of Information Act Officer that confidential treatment is not warranted with respect to all or part of the information in question, the person requesting access to the information under the Freedom of Information Act and the person requesting confidential treatment will be so notified by telephone, telegram or express mail. The person requesting confidential treatment will also be informed that any appeal of such decision must be taken to the Commission within 10 calendar days of the date of the notice. Information which is determined not to be entitled to confidential treatment may be released under the Freedom of Information Act ten calendar days after notice to the person requesting confidential treatment. If within that ten calendar day period the Commission has actually received an appeal from the person requesting confidential treatment, the person requesting access to the information under the Freedom of Information Act will be informed of the pending appeal and that no disclosure of the information will be made until the appeal is resolved.

(2) Any appeal of a denial of a request for confidential treatment shall be in writing, and shall be clearly and prominently identified on the envelope or other cover and at the top of the first page by the legend "FOIA Confidential Treatment Appeal." The appeal should be delivered or sent by mail to the Freedom of Information Act Officer, Securities and Exchange Commission, Washington, D.C. 20549. The person requesting confidential treatment may supply additional substantiation of the request for confidential treatment in connection with the appeal to the Commission.

(3) All appeals taken under this section will be considered by the Commission as, expeditiously as circumstances permit. Although other procedures may be employed, to the extent possible, the Commission will decide the matter on the basis of the affidavits and other documentary evidence submitted by the interested persons and such other information as is brought to the attention of the Commission in accordance with the provisions of § 201.28 of this chapter.

(4) If the Commission determines that confidential treatment is not warranted with respect to all or any part of the information in question, an appropriate order will issue and the person requesting confidential treatment will be so informed by telephone, if possible, with a telegram or express mail letter directed to the person's last known address. Disclosure of the information under the Freedom of Information Act will occur ten calendar days after notice to the person requesting confidential treatment, subject to any stay entered pursuant to paragraph (e)(5) of this section.

(5) If within that ten calendar day period the Commission has been notified that the person requesting confidential treatment has commenced an action in a federal court concerning the Commission's determination to make such information publicly available, the Commission will stay making the public disclosure of the information pending final judicial resolution of the matter. The Commission may vacate a stay under this section either on its own motion or at the request of a person seeking access to the information under the Freedom of Information Act. If the stay is vacated, the information will be released under the Freedom of Information Act ten calendar days after the person requesting confidential treatment is notified of this action by telephone, if possible, with a telegram or express mail letter sent to the person's last known address, unless the court orders otherwise.

(f) *Initial determination that confidential treatment is warranted.* If it is determined by the Commission's Freedom of Information Act Officer that confidential treatment is warranted, the person submitting the information and the person requesting access to the information under the Freedom of Information Act will be so informed by mail. The person requesting access, pursuant to the Freedom of Information Act, will also be informed of the right to appeal the determination to the Commission. Any such appeal must be taken in accordance with the provisions of the Freedom of Information Act and Commission rules thereunder. *See* 17 CFR 200.80 (d)(6).

(g) *Effect of no prior request for confidentiality.* (1) If access is requested under the Freedom of Information Act to information which is submitted to the Commission on or after October 20, 1980 with respect to which no request for confidential treatment has been made pursuant to either paragraph (c)(1) or (c)(4) of this section, it will be presumed that the submitter of the information has waived any interest in asserting an exemption from disclosure under the Freedom of Information Act for reasons of personal privacy or business confidentiality, or for other reasons.

(2) Notwithstanding paragraph (g)(1) of this section, in appropriate circumstances, any person who would be affected by the public disclosure of information under the Freedom of Information Act may be contacted by Commission personnel to determine whether the person desires to make a

request for confidential treatment. Any request for confidential treatment that is asserted in response to such inquiry shall be made in accordance with provisions of this section.

(h) *Extensions of time limits.* Any time limit under this section may be extended, in the discretion of the Commission or the Commission's Freedom of Information Act Officer, for good cause shown.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 12, 1980.

[FR Doc. 80-29083 Filed 9-18-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 271

[Release No. IC-11330]

Indemnification by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Statement of staff position.

SUMMARY: The Commission is announcing the position of its staff with respect to (1) provisions in an investment company's basic documents requiring or permitting the indemnification by the investment company of its directors, officers, investment adviser, or principal underwriter against any liability to the company or to its security holders to which they would otherwise be subject, and (2) the advancement of legal expenses for the defense of proceedings brought against such directors, officers, advisers, or underwriters. The position being announced differs significantly from the staff position previously expressed in the guidelines for the preparation of the registration statements of investment companies and, to that extent, modifies that previous position.

FOR FURTHER INFORMATION CONTACT Elizabeth T. Tsai, Esq., (202) 272-2028, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is announcing the position of its Division of Investment Management ("the staff") concerning the inclusion in the charter, bylaws, or other basic documents of a registered investment company of a provision requiring or permitting the indemnification by the company of its directors or officers, or the inclusion in its investment advisory or underwriting agreement of a provision requiring or permitting the indemnification by the company of its investment adviser or principal underwriter, against any liability to the company or to its security holders to which such person would otherwise be subject.

The present position of the staff differs in significant respects from its previous position as expresed in item 19 of the guidelines for the preparation of Form N-8B-1 ("guidelines") [1] and, to that extent, modifies that previous position.

The staff is of the view that an indemnification provision does not violate section 17(h) [2] or (i) [3] of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-17(h) or (i)] if it precluded indemnification for any liability, whether or not there is an adjudication of liability, arising by reason of willful misfeasance, bad faith, gross negligence, or reckless disregard of duties as described in section 17(h) and (i) ("disabling conduct") and sets forth reasonable and fair means for determining whether indemnification shall be made. In the staff's view, "reasonable and fair means" would include (1) a final decision on the merits by a court or other body before whom the proceeding was brought that the person to be indemnified ("indemnitee") was not liable by reason of disabling conduct or, (2) in the absence of such a decision, a reasonable determination, based upon a review of the facts, that the indemnitee was not liable by reason of disabling conduct, by (a) the vote of a majority of a quorum of directors who are neither "interested persons" of the company as defined in section 2(a)(19) of the 1940 Act [15 U.S.C. 80a-2(a)(19)] nor parties to the proceeding ("disinterested, non-party directors"), or (b) an independent legal counsel in a written opinion. [4]

The dismissal of either a court action or an administrative proceeding against an indemnitee for insufficiency of evidence of any disabling conduct with which he has been charged would, in the staff's view, provide reasonable assurance that he was not liable by reason of disabling conduct. The staff also believes that a determination by the vote of a majority of a quorum of disinterested, non-party directors would provide a reasonable assurance that the indemnitee was not liable by reason of disabling conduct.[5]

The staff continues to believe, however, that an indemnification provision which requires or permits indemnification except when the person to be indemnified has been adjudged by a court to be liable by reason of disabling conduct violates section 17 (h) or (i), since it would, for example, protect a person whose conduct constitutes disabling conduct but who avoids judgment by settlement.

The staff further believes that an indemnification provision does not violate section 17 (h) or (i) simply because it requires or permits the company to advance attorneys' fees or other expenses incurred by its directors, officers, investment adviser, or principal underwriter in defending a proceeding, upon the undertaking by or on behalf of the indemnitee to repay the advance unless it is ultimately determined that he is entitled to indemnification, so long as the provision also requires at least one of the following as a condition to the advance: (1) the indemnitee shall provide a security for his undertaking, (2) the investment company shall be insured against losses arising by reason of any lawful advances, or (3) a majority of a quorum of the disinterested, non-party directors of the investment company, or an independent legal counsel in a written opinion, shall determine, based on a review of readily available facts (as opposed to a full trial-type inquiry), that there is reason to believe that the indemnitee ultimately

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[1] Investment Company Act Release No. 7221, June 6, 1972 [37 FR 12790, June 29, 1972]. Although Form N-8B-1 has been replaced by Forms N-1 and N-2, integrated registration forms under both the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.] and the 1940 Act [15 U.S.C. 80a et seq.], the guidelines have not been withdrawn by the Commission since they contain regulatory positions which are applicable to the new forms. Investment Company Act Release No. 10378, August 28, 1978 [43 FR 39548, September 5, 1978].

[2] Section 17(h), in part, provides:

[N]either the charter, certificate of incorporation, articles of association, indenture of trust, nor the by-laws of any registered investment company, nor any other instrument pursuant to which such a company is organized or administered, shall contain any provision which protects or purports to protect any director or officer of such company against any liability to the company or to its security holders to which he would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

[3] Section 17(i), in part, provides:

[N]o contract or agreement under which any person undertakes to act as investment adviser of, or principal underwriter for, a registered investment company shall contain any provision which protects or purports to protect such person against any liability to such company or its security holders to which he would otherwise be subject by reason of willful misfeasance, bad faith, or gross negligence in the performance of his duties, or by reason of his reckless disregard of his obligations and duties under such contract or agreement.

[4] Whether an indemnification provision which is not prohibited by section 17(h) or (i) might nevertheless bne invalid as contravening some other provision of the federal securities laws, such as sectikon 47(a) of the 1940 Act [15 U.S.C. 80a-46(a)], is beyond the scope of this release.

[5] *See* Burks v. Lasker, 441 U.S. 471 (1979).

will be found entitled to indemnification. The staff will not recommend any action to the Commission under section 17(a)(3) or section 21 of the 1940 Act [15 U.S.C. 80a-17(a)(3) or 21] [6] if an advance is made pursuant to such a provision. Finally, the staff believes that an improper indemnification payment or advance of legal expenses could constitute a breach of fiduciary duty involving personal misconduct under section 36 of the 1940 Act [15 U.S.C. 80a-35] or an unlawful and willful conversion of an investment company's assets under section 37 of that Act [15 U.S.C. 80a-36].

Accordingly, 17 CFR Part 271 is hereby amended to incorporate therein this statement of staff position.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 4, 1980.

[FR Doc. 80-29084 Filed 9-18-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Dichlorophene and Toluene Capsules; Oral Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Texas Vitamin Co., providing for safe and effective use of dichlorophene and toluene capsules for treating dogs and cats for certain helminth infections, and to add Texas Vitamin Co. to the list of approved NADA sponsors.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Texas Vitamin Co., P.O. Box 18417, 10695 Aledo St., Dallas, TX 75218, filed an NADA (117-688) providing for the use of capsules containing dichlorophene and toluene for treating dogs and cats for infections of certain ascarids, hookworms, and tapeworms. This product is a generic equivalent of a product that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) evaluation published in the **Federal Register** of February 1, 1969 (34 FR 1613) and reflected in § 520.580 (21 CFR 520.580). The composition of the product and specifications for the active ingredients are identical to those of the NAS/NRC reviewed product. Based on review of this information, the Bureau concluded that it is reasonable to expect identical *in vivo* release properties. Therefore, no bioequivalency data was required.

Texas Vitamin Co. was not included in the list of sponsors of approved applications found in § 510.600(c) (21 CFR 510.600(c)). The regulations are amended to include this sponsor and their approval.

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.

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), Parts 510 and 520 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Texas Vitamin Co., P.O. Box 18417, 10695 Aledo St., Dallas, TX 75218	000842

(2) * * *

Drug labeler code	Firm name and address
000842	Texas Vitamin Co., P.O. Box 18417, 10695 Aledo St., Dallas, TX 75218

2. In Part 520, § 520.580 is amended by revising paragraph (b)(1) to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

* * * * *

(b) *Sponsor.* (1) For single dose only see 000010, 000081, 000298, 000842, 000856, 010290, 010888, 011519, 011536, 011614, 015563, 017135, and 023851 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective September 19, 1980.

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

Dated: September 12, 1980.

Gerald A. Guest,

Acting Director of Bureau of Veterinary Medicine.

[FR Doc. 80-28956 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 522

Dexamethasone Sodium Phosphate Injection; Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Maurry Biological Co., Inc., providing for safe and effective intravenous use of dexamethasone sodium phosphate in dogs, cats, and horses as an anti-inflammatory agent.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Maurry Biological Co., Inc., 6109 S. Western Ave., Los Angeles, CA 90047, filed an NADA (110-046) providing for intravenous injection of dexamethasone sodium phosphate in dogs, cats, and horses for its anti-inflammatory action. The formulation of this product is identical to that of Anthony Veterinary Products Co.'s product the approval of which is codified in 21 CFR 522.540.

Anthony's product was approved based on a showing of bioequivalency between it and Schering's

[6] Section 17(a)(3) and section 21 taken together state the circumstances under which an affiliated person of, or principal underwriter to, an investment company may be permitted to borrow money from the company.

dexamethasone sterile solution (NADA 12–559, originally approved March 29, 1961). Schering's dexamethasone sterile solution and aqueous suspension were among several adrenocortical steriod type preparations that were the subject of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group report published in the **Federal Register** of April 12, 1969 (34 FR 6447). The NAS/NRC report concluded, and the agency concurred, that the preparations are effective as anti-inflammatory agents for dogs, cats, horses, and cattle, and for primary bovine ketosis. In addition, the report stated that the preparations may be used as supportive therapy for certain other conditions. Supplemental NADA's were invited to provide revised labeling limiting the conditions of use as stated in the report. Schering submitted supplemental applications to revise the labeling of these products as required by the NAS/NRC report. The supplements were approved April 6, 1971 and codified in the regulations (21 CFR 522.540(a)). Approval of NADA's for similar products does not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5) of the animal drug regulations (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)), but may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for generic drugs reviewed by NAS/NRC. The guideline is available at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. This document amends the regulations to reflect approval of Maurry's product.

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 the 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), Rm. 4–62, Food and Drug Administration (address given above) from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.540 by revising paragraph (d) (1) and (2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(d)(1) *Specifications.* The drug is a sterile aqueous solution. Each milliliter contains 2.0 milligrams of dexamethasone or 4.0 milligrams of dexamethasone sodium phosphate (equivalent to 3.0 milligrams of dexamethasone).

(2) *Sponsors.* See the following numbers in § 510.600(c) of this chapter:

(i) 010271 and 000029 for intramuscular or intravenous use of 2.0 milligrams dexamethasone injection.

(ii) 010719 for intravenous use of 4.0 milligrams dexamethasone sodium phosphate (equivalent to 3.0 milligrams of dexamethasone) injection.

* * * * *

Effective date. This regulation is effective September 19, 1980.

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

Dated: September 12, 1980.

Gerald A. Guest,

Acting Director of Bureau of Veterinary Medicine.

[FR Doc. 80-28957 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 524

New Animal Drugs Not Subject to Certification; Fenthion, Ophthalmic and Topical Dosage Form

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) providing for revised directions for safe and effective use of fenthion for treating grub and lice infestations of cattle. The application was filed by Bayvet Division of Cutter Laboratories, Inc.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201, filed a supplemental NADA (47–138) providing for revised directions for use of a topical insecticide (fenthion) solution for control of cattle grubs and as an aid in controlling lice. The revisions will enhance conditions for the drug's safe use in cattle. No new safety or effectiveness data were required.

Approval of this supplemental application poses no increased human risk from exposure to residues of fenthion because it clarifies instructions for use, and it does not alter the dosage or pattern of usage in treated animals. Accordingly, under the Bureau of Veterinary Medicine's supplemental NADA approval policy (see the **Federal Register** of December 23, 1977; 42 FR 64367), this Category II approval did not require reevaluation of the safety data supporting the parent application.

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.

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), § 524.920 *Fenthion* is amended in paragraph (c)(5)(ii) by deleting "Treatment should be applied at least 6 weeks before the expected appearance of grubs in the back" and revising "Cattle should be treated either before or after these stages of grub development" to read "Cattle should be treated before these stages of grub development."

Effective date. September 19, 1980.

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

Dated: September 11, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-28795 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Decoquinate; New Animal Drugs for Use in Animal Feeds

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hess & Clark, Division of Rhone-Poulenc, Inc., providing for administrative waiver of the requirements of section 512(m) of the act for manufacture of a complete broiler feed and complete or supplemental cattle feeds from a 6 percent (27.2 grams per pound) decoquinate premix.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of

Veterinary Medicine (HFV–149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Hess and Clark, Division of Rhone-Poulenc, Inc., Ashland, OH 44805, filed a supplemental NADA (39–417) providing for waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) for manufacture of feeds containing the following percentages of decoquinate: complete broiler—0.003, complete cattle—0.0015 to 0.003, and cattle supplements—0.05 to 0.5. The finished feeds are used as an aid in preventing coccidiosis.

Decoquinate, as the sole drug, meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the requirements of section 512(m) of the act. The pertinent provisions of the memoranda prescribe that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact of an existing withdrawal period or a tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file.

4. The margin of safety to the animal and safety to the consumer is such that the product label does not have to contain a statement such as "use as the sole source of * * *."

5. Data are on file to demonstrate that the product is effective over the approved range. These data should satisfy current standards for the demonstration of effectiveness.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The 1971 memoranda provided that because waiver of the requirements of section 512(m) of the act is permitted only for specific effectiveness claims or at specific levels of the drugs, distinct products with corresponding labeling for those claims or levels should exist.

The criteria established in the 1971 memoranda constitute an interim agency policy, which is under review. The Bureau of Veterinary Medicine is preparing a proposed regulation for publication in the **Federal Register** governing waiver of the 512(m) requirements. In waiving the requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice requirements of Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

The Bureau of Veterinary Medicine concludes that approval of the supplemental application poses no increased human risk from exposure to residues of the new animal drug. The basis for this conclusion is that the dosage schedule and treatment regimen for the drug are not affected by the approval of the supplemental application. Accordingly, this approval did not require a complete reevaluation of the safety and effectiveness data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released for public examination at 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.

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), § 558.195 is amended by revising paragraph (f), to read as follows:

§ 558.195 Decoquinate.

* * * * *

(f) *Special considerations.* (1) Bentonite should not be used in decoquinate feeds.

(2) Complete broiler feeds and complete or supplemental cattle feeds containing decoquinate as the sole drug, processed from premixes containing 6 percent decoquinate and conforming to the requirements of paragraph (g) (1) and (2) of this section, are not required to comply with the provisions of section 512(m) of the act.

* * * * *

Effective date. This amendment is effective September 19, 1980.

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

Dated: September 12, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80–28958 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF STATE

22 CFR Part 171

[Dept. Reg. 108.794]

Regulations Concerning the Freedom of Information and Privacy Acts

Correction

In FR Doc. 80–26755, appearing at page 58108 in the issue of Tuesday, September 2, 1980 please make the following corrections to § 171.32.

1. On page 58113, third column, the reference in the last sentence of paragraph (b), now reading "(k)(4)" should read "(k)(2)".

2. In that same column, the reference in the last sentence of paragraph (d), now reading "(k)(3)" should read "(k)(4)".

BILLING CODE 1505–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 859

Non-Air Force Pilots Flying Air Force Test Aircraft

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by revising Part 859, Non-Air Force Pilots Flying Air Force Test Aircraft. This revision authorizes the flying of Air Force test aircraft by non-Air Force pilots, and tells who may approve such flights; updates office symbols; deletes

reference to aircraft bailment; further defines test aircraft to include only development, test, and evaluation (DT&E) aircraft assigned to Air Force Systems Command (AFSC) and Air Force Logistics Command (AFLC); and adds AFLC approval authority for non-Air Force pilots flying AFLC-assigned test aircraft.

EFFECTIVE DATE: September 12, 1975.

FOR FURTHER INFORMATION CONTACT: Colonel Lynn L. LeBlanc, telephone (202) 694–4590.

Title 32 of the Code of Federal Regulations is amended by revising Part 859 to read as follows:

PART 859—NON-AIR FORCE PILOTS FLYING AIR FORCE TEST AIRCRAFT

Sec.
859.0 Purpose.
859.1 Test aircraft explained.
859.2 Who may fly Air Force test aircraft.
859.3 Approval of flights.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 60–30, September 12, 1975.

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

§ 859.0 Purpose.

This part authorizes the flying of Air Force test aircraft by non-Air Force pilots, and tells who may approve such flights.

§ 859.1 Test aircraft explained.

A test aircraft is any AFSC/AFLC aircraft assigned for development, test and evaluation (DT&E) purposes (E coded assignment designation). Production aircraft undergoing acceptance testing but not yet accepted from the contractor by the Air Force are not included.

§ 859.2 Who may fly Air Force test aircraft.

Non-Air Force pilots with qualifications comparable to Air Force standards may fly Air Force test aircraft provided:

(a) Flights are in the interest of the Air Force development program and do not hinder the Air Force testing program.

(b) The person making the flight submits a report of the findings of each flight to the approving Air Force agency.

(c) Classified information is not disclosed or revealed except with specific approval.

§ 859.3 Approval of flights.

(a) HQ USAF/RDP approves flying of Air Force:

(1) Test aircraft by:

(i) Persons officially sponsored by or representing foreign governments whose visit within CONUS has been approved by HQ USAF/CVAF.

(ii) Other non-United States citizens.

(iii) United States citizens who are not members of the Department of Defense (DOD), National Aeronautics and Space Administration (NASA), or Federal Aviation Administration (FAA).

(2) Research or experimental aircraft by persons not directly involved in the testing program for that aircraft.

(b) The Commander, AFSC and AFLC, approves flying of Air Force test aircraft by:

(1) United States citizens who are members of DOD, NASA, or FAA.

(2) Civilian contractor personnel actively engaged in approved Air Force test programs.

(c) The cognizant Air Force government flight representative approves flights of contractor personnel in Air Force test aircraft according to the terms and conditions of the contract under which the aircraft is provided.

(d) The administrator of the agency responsible for the aircraft approves flights of other pilots (including Air Force pilots) in Air Force test aircraft on loan to NASA or FAA, except as provided in paragraph (a)(1)(ii) of this section.

Carol M. Rose,

Air Force Federal Register Liason Officer.

[FR Doc. 80–28945 Filed 9–18–80; 8:45 am]

BILLING CODE 3910–01–M

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32 CFR Part 887

Military Personnel; Issuing Certificates in Lieu of Lost of Destroyed Certificates of Separation

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by revising Part 887, Issuing Certificates in Lieu of Lost or Destroyed Certificates of Separation. This revision tells who may apply for a certificate in lieu of a lost or destroyed certificate of separation and where and how to apply; adds a provision for "Undesirable Discharge" certificates to be replaced by "Discharge Under Other Than Honorable Conditions"; updates office symbols and updates the address where Air National Guard enlisted members not on extended active duty (EAD) must apply for Certificates in Lieu (CILs).

EFFECTIVE DATE: November 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. Roussin, Air Force Manpower and Personnel Center (MPCDOP), Randolph Air Force Base, Texas 78148; telephone (512) 652–2089.

Title 32 of the Code of Federal Regulations is amended by revising Part 887 to read as follows:

PART 887—ISSUING CERTIFICATES IN LIEU OF LOST OR DESTROYED CERTIFICATES OF SEPARATION

Sec.
887.1 Purpose.
887.2 Explanation of terms.
887.3 Safeguarding certificates.
887.4 Persons authorized CILs.
887.5 Requesting CILs.
887.6 Issuing CILs.
887.7 Persons separated under other than honorable conditions (undesirable or bad conduct) or dishonorable discharge.
887.8 Where to apply for certificates.
887.9 Furnishing photocopies of documents.

Authority: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012; DOD Instruction 1332.13, December 23, 1968.

Note.—This part is derived from Air Force Regulation 35–96, November 5, 1979.

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

§ 887.1 Purpose.

This part tells who may apply for a certificate in lieu of a lost or destroyed certificate of separation and where and how to apply. It implements 10 U.S.C. 1040 and DOD Instruction 1332.13, December 23, 1968. Each form used to collect personal information has an associated Privacy Act Statement that will be given to the individual before information is collected.

§ 887.2 Explanation of terms.

(a) *Certificate in Lieu (CIL).* A certificate issued in lieu of a lost or destroyed certificate of service, discharge, or retirement.

(b) *Service Person.* One who:

(1) Is currently serving as a member of the Air Force, or

(2) Formerly served in the active military service as a member of the Air Force and all military affiliation was terminated after September 25, 1947.

(c) *Surviving Spouse.* A survivor who was legally married to a service person at the time of the person's death.

(d) *Guardian.* A person or group of persons legally placed in charge of the affairs of a service person adjudicated mentally incompetent.

§ 887.3 Safeguarding certificates.

Certificates of separation are important personal documents.

Processing applications for CILs is costly to the Air Force. To keep requests for CILs at a minimum.

(a) Personnel officers will tell members the importance of safeguarding the original certificates.

(b) Persons who issue CILs (§ 887.8) will type or stamp across the lower margin "This is an Important Record—Safeguard It" (if it is not printed on the certificate).

Note.—Do not show this legend on DD Form 363AF, Certificate of Retirement.

§ 887.4 Persons authorized CILs.

CILs may be issued only to:

(a) A service person whose character of service was honorable or under honorable conditions.

(b) A surviving spouse.

(c) A guardian, when a duly certified or otherwise authenticated copy of the court order of appointment is sent with the application.

§ 887.5 Requesting CILs.

(a) Standard Form 180, Request Pertaining to Military Records, should be used by persons who had service as shown in § 887.4(a). However, a letter request, with sufficient identifying data and proof that the original certificate of separation was lost or destroyed, may be used. Members on active duty will forward their applications through their unit commander.

(b) Standard Form 180, or any similar form used by agencies outside the Department of Defense, will be used by persons shown in § 887.4 (b) and (c), and § 887.7.

Note.—Persons authorized CILs may be assisted in their requests by the Customer Service Unit in the Consolidated Base Personnel Office (CBPO).

§ 887.6 Issuing CILs.

The issuing authority makes sure that the proper CIL form is issued, particularly if the service person has had both Army and Air Force service. The assignment status as of September 26, 1947 determines whether the person was in the Army or Air Force at the time of discharge or release from active duty. Separations before that date are considered Army separations. Those on or after that date are considered Air Force separations, unless the records clearly show the person actually served as a member of the Army during the period of service for which the CIL is requested. Individuals indicated in § 887.4 may be issued CILs prepared on one of the following forms:

(a) DD Form 303AF, Certificate in Lieu of Lost or Destroyed Discharge, to replace any lost or destroyed certificate of discharge from the Air Force.

(b) DD Form 363AF, Certificate of Retirement, to replace any lost or destroyed certificate of retirement from the Air Force (issued only to service members).

(c) AF Form 386, Certificate in Lieu of Lost or Destroyed Discharge (AUS), to replace any lost or destroyed certificate of discharge from the Army.

(d) AF Form 681, Certificate in Lieu of Lost of Destroyed Certificate of Service (AUS), to replace any lost or destroyed certificate of service, or like form, issued on release from extended active duty (EAD) in the Army.

(e) AF Form 682, Certificate in Lieu of Lost or Destroyed Certificate of Service (USAF), to replace any lost or destroyed certificate of service, or like form, issued on release from EAD in the Air Force.

§ 887.7 Persons separated under other than honorable conditions (undesirable or bad conduct) or dishonorable discharge.

Those persons whose character of service was under other than honorable conditions or dishonorable are not eligible for CILs. However, an official photocopy of the report of separation, if available, may be sent on request. Mask out the items, "authority and reason" and "reenlistment code," before the copy is made. Enter a dashed line in these items on the photocopy.

(a) If a report of separation is not available, furnish a brief official statement of military service. Use the letterhead stationery of the issuing records custodian. File a copy of the statement in the Master Personnel Record.

(b) If DD Form 258AF, Undesirable Discharge, has been issued, it may be replaced with DD Form 794AF, Discharge Under Other Than Honorable Conditions. Former members may apply to the CBPO at any Air Force base.

(c) Charge a $3 fee for issuing a document under this section, with the exception of paragraph (b) of this section.

§ 887.8 Where to apply for certificates.

(a) DD Form 363AF. HQ AFMPC/MPCDOO, for officers, and HQ AFMPC/MPCDOA, for enlisted members, Randolph AFB, TX 78148. Applicant must attach a copy of the retirement order to SF 180.

(b) All Other Certificates:

(1) HQ AFMPC/MPCDOO, for officers, and AFMPC/MPCDOA, for enlisted members, Randolph AFB, TX 78148, for:

(i) Members on EAD or on the temporary disability retired list.

(ii) General officers in retired pay status.

(2) NPRC/MPR–AF, 9700 Page Blvd., St. Louis, MO 63132, for officers and enlisted members:

(i) Completely separated from the Air Force or Air National Guard.

(ii) In a retired pay status, except general officers.

(iii) In the retired Reserve who cannot become eligible for retired pay.

(3) ARPC/DPSFB, Denver, CO 80280, for Air National Guard and Air Force Reserve officers and enlisted members not on EAD, including retired Reserve who will be eligible for retired pay at age 60.

§ 887.9 Furnishing photocopies of documents.

This part does not prohibit authorities (§ 887.8) from supplying photocopies of certificates of service, reports of separation, or similar documents.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-28944 Filed 9-18-80; 8:45 am]

BILLING CODE 3910-01-M

Proposed Rules

Federal Register
Vol. 45, No. 184
Friday, September 19, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

Handling of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Fruits, Import Regulations; Proposed Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: This notice invites written comments on a proposal that would establish minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit. The proposed action is designed to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

DATES: Comments must be received not later than October 6, 1980.

PROPOSED EFFECTIVE DATE: October 13, 1980.

ADDRESS: Send two copies of comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Draft Impact Analysis relative to this proposed action is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and is classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

The Department is considering proposed regulations, as hereafter set forth, effective under the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and to a conforming regulation for imported grapefruit, effective pursuant to Section 8e of the act. The proposal with respect to Florida oranges, grapefruit, tangerines and tangelos is based upon recommendations of the Citrus Administrative Committee established under the marketing order.

The proposed minimum grade and size requirements for domestic and export shipments reflect the committee's appraisal of the need for regulation of the designated varieties of Florida oranges, grapefruit, tangerines, and tangelos during the specified period based on the available supply and current and prospective market demand conditions. The committee reports that such requirements are proposed to assure shipment of an adequate supply of acceptable quality fruit.

The committee estimates the 1980–81 season's crop of Florida round oranges at about 188 million boxes, 9 percent less than last season's record production. It estimates grapefruit production at about 52 million boxes, five percent lower than the 1979–80 season production, and that the Temple orange, tangelo, and tangerine crops are somewhat smaller than those harvested last season. The committee reports that groves are generally in excellent condition despite the unusually hot and dry summer. The new crop should be of good quality, with minimum disease and wind damage being reported. The shape of the fruit is considered to be generally good and the absence of late bloom should enhance the overall quality of the citrus crop.

The committee's appraisal indicates fresh market demand at 18,000 carlots of round oranges, 4,000 carlots of Temple oranges, 10 carlots of seeded grapefruit, 35,500 carlots of seedless grapefruit, 3,750 carlots of tangelos, and 6,200 carlots of tangerines. Hence, considering the available supply and the reported size and quality of the fruit, more than ample quantities of each of the specified fruits meeting the proposed grade and size requirements will be available to supply such demands.

The proposed minimum grade and size requirements for imported grapefruit would be consistent with Section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

1. The proposal is that § 905.304 Orange, Grapefruit, Tangerine and Tangelo Regulation 4 and § 944.104 Grapefruit Regulation 4 read as follows:

§ 905.304 Orange, grapefruit, tangerine and tangelo regulation 4.

Order. (a) During the period specified in Column (2) of Table I, no handler shall ship between the produciton area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Columns (3) and (4) of such table.

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges:			
Early and midseason	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2⁹⁄₁₆
Navel	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1 golden	2⁹⁄₁₆
Valencia and other late type	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2⁹⁄₁₆
Temple	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2⁹⁄₁₆

Table I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Grapefruit:			
Seeded, except pink	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	3 3/16
Seeded, pink	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	3 3/16
Seedless, except pink	Oct. 13, 1980 to Oct. 18, 1981	Improved No. 2	3 3/16
Seedless, pink	Oct. 13, 1980 to Oct. 18, 1981	Improved No. 2	3 3/16
Tangerines:			
Robinson	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 1/16
Dancy	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16
Honey	Oct. 13, 1980 to Oct. 18, 1981	Florida No. 1	2 1/16
Tangelos: Tangelos	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16

(b) During the period specified in Column (2) of Table II, no handler shall ship to any destination outside the continenatal United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Columns (3) and (4) of such table.

Table II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges:			
Early and midseason	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 1/16
Navel	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1 golden	2 1/16
Valencia and other late type	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16
Temple	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16
Grapefruit:			
Seeded, except pink	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	3 3/16
Seeded, pink	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	3 3/16
Seedless, except pink	Oct. 13, 1980 to Oct. 18, 1981	Improved No. 2	3 3/16
Seedless, pink	Oct. 13, 1980 to Oct. 18, 1981	Improved No. 2	3 3/16
Tangerines:			
Robinson	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16
Dancy	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16
Honey	Oct. 13, 1980 to Oct. 18, 1981	Florida No. 1	2 5/16
Tangelos: Tangelos	Oct. 13, 1980 to Oct. 18, 1981	U.S. No. 1	2 5/16

(c) Size Tolerances: In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for *oranges*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel and Temple oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerances for Honey tangerines shall be as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for *grapefruit*, as specified in § 2851.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for *tangerines*, as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for *tangelos*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 2851.1140–2851.1180), the U.S. Standards for Florida Tangerines (7 CFR 2851.1810–2851.1835), or the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

§ 944.104 Grapefruit Regulation 4.

(a) *Applicability to imports.* Pursuant to Section 8e of the act and Part 944—Fruits; Import regulations, during the period specified in Column (2) of Table I, in § 905.304, the importation into the United States of any variety of grapefruit listed in Column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in Columns (3) and (4) of said table. In the determination of minimum size as prescribed in table I, a tolerance is permitted as specified in paragraph (c) of § 905.304.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed ten standard packed cartons, equivalent to four-fifths (4/5) of a United States bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

(d) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(e) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of grapefruit for the purpose of making it eligible for importation. Any lot of grapefruit or portion thereof which subsequently fails to meet the grade or size requirements specified herein may not be imported. Disposal of such fruit at the port of entry shall be certified by the Federal-State Inspection Service. Costs of certifying the disposal of rejected grapefruit shall be borne by the importer.

(f) It is determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements of this section are the same as those being made effective for grapefruit grown in Florida.

(g) Terms used herein relating to grade, except Improved No. 2 grade, and

diameter shall have the same meaning as in the United States Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784). Improved No. 2 shall mean the same as in the marketing agreement and Order No. 905, both as amended (7 CFR Part 905). Importation means release from custody of the United States Customs Service.

Dated: September 16, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-29080 Filed 9-18-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR PART 1133

Milk in the Inland Empire Marketing Area; Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: The notice invites written comments on a proposal to suspend certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The proposed suspension would remove the limit on such movements of milk during the months of September and October 1980. The action was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and to maintain producer status under the order for its dairy farmer members regularly associated with the market.

DATE: Comments are due not later than September 26, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1017, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Inland Empire marketing area is being considered for September and October 1980:

In § 1133.13 (c)(1) and (2), the words "70 percent in any of the months of September through February, and".

All persons who want to comment on the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than September 26, 1980.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include September 1980 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours [CFR 1.27(b)].

Statement of Consideration

The proposed action would remove the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of September and October 1980. The order now provides that a cooperative association may divert up to 70 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 80 percent during all other months. Similarly, the operator of a pool plant may divert up to 70 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of September through February and 80 percent during all other months.

The suspension was requested by a cooperative association that supplies the market with a substanial part of its fluid needs and handles much of the market's reserve milk supplies. The basis for the request is that current marketing conditions require the proponent cooperative to handle an increasing quantity of reserve milk supplies during September and October 1980 because of substantial increased milk production by producers regularly associated with the market. It indicated that this situation is aggravated by the fact that in recent months Class I sales in the market have remained about the same.

Because of current marketing conditions, the cooperative expects its reserve milk supplies during September and October 1980 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, the cooperative believes that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically, first to pool plants and then to nonpool manufacturing plants, in order to still maintain producer status for such milk during September and October 1980.

Signed at Washington, D.C., on: September 16, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-29103 Filed 9-18-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins Specifications for Coaxial Drop and Coaxial Service Entrance Cable, PE-73

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by issuing a revised Bulletin 345–60, Specification for Coaxial Drop and Coaxial Service Entrance Cable, PE–73. This revision will reflect improvements in state of the art production and will provide uniform requirements for the production of cable. Use of this specification will permit REA borrowers to provide the best most cost-effective CATV possible using state of the art technology.

DATES: Public comments must be received by REA no later than November 18, 1980.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA proposes to issue revised Bulletin 345–60, Specification for Coaxial Drop and Coaxial Service Entrance Cable, PE–73. This action has been reviewed under USDA procedures established in

Secretary's Memorandum No. 1955 to implement Executive Order No. 12044 and has been classified not significant.

This program is listed in the Catalog of Federal Domestic Assistance as 10.853 Community Antenna Television Loans and Loan Guarantees.

REA, in its effort to assure the best, most cost-effective telecommunications service for rural America, proposes to revise PE–73. The revision will provide an improved long-lived product and will give manufacturers uniform standards in which to develop and produce a product. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: September 12, 1980.

John H. Arnesen,

Assistant Administrator, Telephone.

[FR Doc. 80–29079 Filed 9–18–80; 8:45 am]

BILLING CODE 3410–15–M

Farmers Home Administration

7 CFR Part 1822

[CFDA No. 10.410]

Rural Housing Loans and Grants; Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend its regulations regarding income limits. The intended effect of this action is to give effect to the definition of low-income as defined by Section 502(b) of the Housing and Community Development Amendments of 1979. (Pub. L. 96–153). This action will define low- and moderate-income by area. An area is a substate planning and development district, FmHA district, an entire state, or county, as appropriate for a particular state. The action to change low-income is required by law, the action to change moderate-income is an administrative decision.

DATES: Comments must be received on or before November 18, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directive Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to the notice will be available for public inspection at the adddress given above.

FOR FURTHER INFORMATION CONTACT: Art Collings, Special Assistant to the Administrator, Room 5305, South Agriculture Building, Washington, D.C. 20250 (202) 447–8448 or Mr. Mathias (Matt) J. Felber, Home Ownership Loan Division, Room 5339, South Agriculture Building, Washington, D.C. 20250 202–447–4295.

This Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the Office of the Chief, Directives Management Branch, Room 6346, South Agriculture Building, 14th and Independence SW, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been revised under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant". As proposed, Exhibit C of Subpart A, Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations is revised and Exhibit D of Subpart A of Part 1822 is deleted. Section 502(b) of Title V of the Housing and Community Development Amendment of 1979 amends section 501(b) of the Housing Act of 1949 by defining persons of low income and persons and families of low income as families and persons whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that: (A) if the Secretary determines that it is impracticable to use the median income for any area, the Secretary may use for such area the median income of all the non-metropolitan areas in the State, and (B) the Secretary may establish income ceilings higher or lower than 80 per centum of median income on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, normally high or low family income, or other factors.

For the purpose of this title, the term "income" means income from all sources of each member of a houshold, as determined in accordance with criteria prescribed by the Secretary.

The amendment did present a degree of difficulty for FmHA. The 80 percent definition is used in the HUD Section 8 program which utilizes a full subsidy to cover the difference between housing cost and income. This type of subsidy is only available for a small portion of the FmHA housing program. Over 70 percent of FmHA housing funds are contained in the section 502 home ownership program. The subsidies in section 502 are shallower and only extend to reduction of interest payments. Since existing law requires that 60 percent of section 502 and 515 funds go to low income persons, and 80 percent of area median income was below that necessary to carry section 502 mortgages in some areas, it was necessary to make adjustments. The principal adjustments made were as follows:

1. Adjusting incomes upward from 80 percent of median to equal the income necessary to carry the average new dwelling mortgage at 2 percent interest, plus taxes and insurance within 20 percent of adjusted income.

2. Adjusting downward those median incomes which exceeded $14,000 and were also well above new dwelling affordability at 2 percent interest.

3. Increasing to the average of state areas 80 percent of median income in areas where this figure would be lower. This was accomplished to prevent radical differences between neighboring counties and to avoid being unable to provide maximum services in distressed areas.

Hence the proposed low income formula is: 80 percent of area median income, or the income necessary to carry an average FmHA new dwelling mortgage at 2 percent interest, or the state average of area median income, whichever is greater; except that where 80 percent of area median income exceeds $14,000 low income will be equal to the highest area income in the state, at or below $14,000 provided it will be no lower than the income required to carry a mortgage on an average FmHA financed new dwelling at 2 percent interest.

Affordable housing cost at 2 percent interest was determined by polling FmHA county offices on current new dwelling costs, taxes and insurance. The results were checked against fiscal year 1979 actual data using a cost of living increase factor. FmHA has used substate area planning and development districts where they exist as the areas cited in the law. Where there were none, FmHA districts have been utilized. The exceptions are Connecticut, Delaware, and Maine where the areas are counties, and Rhode Island where the area is the entire state.

Since low income is higher than the current national $11,200 maximum, in many areas, it was also necessary to adjust the moderate income ceilings as well. Here again FmHA faced a dilemna. If affordability were used the moderate income range would be broadened extensively. On the other hand, limiting the level to median income might pose potentially serious future problems for families on interest subsidy. The law provides for interest subsidy only to low

and moderate income persons. Unless present levels are increased some borrowers would face a drastic increase in payments to FmHA.

A compromise formula was developed and is used to determine the maximum moderate income level. Moderate income level will be 110 percent of area median income, or $4,400 over the low income (the present range for moderate income), or $15,600 whichever is greater. The regulation will apply to all rural housing loan and grant programs.

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies and Authorizations

Exhibit D—[Deleted]

As proposed, Exhibit D of Subpart A of Part 1822 is deleted and Exhibit C of Subpart A of Part 1822 is revised and reads as follows:

Exhibit C Maximum Adjusted Income for Low- and Moderate-Income Households

I. *Purpose.*

This Exhibit sets the limits and defines very low-, low-, and moderate-income households for use by FmHA in administering the agency's rural housing programs.

II. *Definitions.*

(a) *Area.* An area is a substate planning district, entire state, county, or FmHA district.

(b) *Very low-income.* Very low-income is 50 percent of area median income.

(c) *Low-income.* Low-income is 80 percent of area median income, or an income necessary to carry a mortgage on a new modest dwelling at a 2 percent interest rate, or the state average of area median income, whichever is greater, except that where 80 percent of area median income exceeds $14,000 low-income is the same as the next highest low-income in the state which is at or below $14,000, provided it is not lower than an income required to carry a mortgage on a new dwelling with interest at 2 percent.

(d) *Moderate income.* Moderate income is the greater of 110 percent of area median income, $4,400 over low income or $15,600 whichever is greater.

III. *Income Limits Table.*

BILLING CODE 3410-07-M

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ALABAMA					
NORTHWEST	13,700	6,900	11,000	15,600	
COLBERT	FRANKLIN		LAUDERDALE	MARION	WINSTON
WEST	11,100	5,600	10,700	15,600	
BIBB PICKENS	FAYETTE TUSCALOOSA		GREENE	HALE	LAMAR
BIRMINGHAM	16,200	8,100	12,900	17,820	
BLOUNT WALKER	CHILTON		JEFFERSON	SHELBY	ST CLAIR
EAST	13,100	6,600	10,700	15,600	
CALHOUN COOSA	CHAMBERS ETOWAH		CHEROKEE RANDOLPH	CLAY TALLADEGA	CLEBURNE TALLAPOOSA
SOUTH CENTRAL	9,700	4,900	10,700	15,600	
BULLOCK PIKE	BUTLER		CRENSHAW	LOWNDES	MACON
TOMBIGBEE	10,600	5,300	10,700	15,600	
CHOCTAW MONROE	CLARKE PERRY		CONECUH SUMTER	DALLAS WASHINGTON	MARENGO WILCOX
SOUTHEAST	12,400	6,200	10,700	15,600	
BARBOUR HENRY	COFFEE HOUSTON		COVINGTON	DALE	GENEVA
SOUTH	14,700	7,400	11,700	16,170	
BALDWIN	ESCAMBIA		MOBILE		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ALABAMA	CONTINUED				
CENTRAL	16,600	8,300	13,300	18,260	
AUTAUGA	ELMORE		MONTGOMERY		
LEE CO	14,900	7,500	11,900	16,390	
LEE	RUSSELL				
NORTH CENTRAL	13,100	6,600	10,700	15,600	
CULLMAN	LAWRENCE		MORGAN		
TOP OF ALA	13,700	6,900	11,000	15,600	
DEKALB	JACKSON		LIMESTONE	MADISON	MARSHALL

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ARIZONA					
MARICOPA	18,400	9,200	13,400	20,240	
MESA	PEORIA		BUCKEYE	AVONDALE	
TUCSON	16,700	8,400	13,400	18,370	
TUCSON					
DIST III	12,800	6,400	12,600	17,000	
PRESCOTT SPRINGERVILLE	COTTONWOOD WINLOW ROCK		FLAGSTAFF	HOLBROOK	SNOWFLAKE
DIST IV	16,300	8,200	13,000	17,930	
KINGMAN	LAKE HAVASU		PARKER	YUMER	
DIST V	14,800	7,400	12,600	17,000	
SACATON	FLORENCE		ELOY	CASA GRANDE	GLOBE
DIST VI	15,300	7,700	12,600	17,000	
WILCOX	BENSON		DOUGLAS	NOGALER	SAFFORD

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ARKANSAS					
WEST CENTRAL	12,000	6,000	10,400	15,600	
CLARK MONTGOMERY	CONWAY PERRY		GARLAND PIKE	HOT SPRINGS POPE	JOHNSON YELL
SOUTHWEST	12,100	6,100	10,300	15,600	
CALHOUN LAFAYETTE SEVIER	COLUMBIA LITTLE RIVER UNION		DALLAS MILLER	HEMSTEAD NEVADA	HOWARD OUACHITA
SOUTHEAST	11,100	5,600	10,200	15,600	
ARKANSAS DESHA	ASHLEY DREW		BRADLEY GRANT	CHICOT JEFFERSON	CLEVELAND LINCOLN
NORTHWEST	11,900	6,000	9,700	15,600	
BAXTER MARION	BENTON NEWTON		BOONE SEARCY	CARROLL WASHINGTON	MADISON
EAST	11,200	5,600	9,800	15,600	
CLAY LAWRENCE RANDOLPH	CRAIGHEAD LEE ST FRANCIS		CRITTENDEN MISSISSIPPI	CROSS PHILLIPS	GREENE POINSETT
WHITE RIVER	10,100	5,100	9,500	15,600	
CLEBURNE SHARP	FULTON STONE		INDEPENDENCE VAN BUREN	IZARD WHITE	JACKSON WOODRUFF
CENTRAL	14,900	7,500	11,900	16,390	
FAULKNER SALINE	LONOKE		MONROE	PRAIRIE	PULASKI
WESTERN	11,500	5,800	9,500	15,600	
CRAWFORD SEBASTIAN	FRANKLIN		LOGAN	POLK	SCOTT

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
CALIFORNIA					
DISTRICT 1	15,100	7,600	13,400	17,800	
BUTTE	COLUSA		GLENN	LASSEN	MODOC
PLUMAS	SHASTA		SISKIYOU	TEHAMA	TRINITY
DISTRICT 2	17,600	8,800	13,400	19,360	
ALPINE	AMADOR		ELDORSTET	MONO	NEVADA
PLACER	SACRAMENTO		SIERRA	SOLANO	SUTTER
YOLO					
DISTRICT 3	16,500	8,300	13,400	18,150	
CALAVARAS	CONTA COSTA		MADERA	MARIPOSA	MERCED
SAN JOAQUIN	STANISLAUS		TUOLUMNE		
DISTRICT 4	18,800	9,400	13,400	20,680	
IMPERIAL	INYO		KERN	ORANGE	RIVERSIDE
SAN BERNARDINO	SAN DIEGO				
DISTRICT 5	14,700	7,400	13,400	17,800	
FRESNO	KINGS		TULARE		
DISTRICT 6	17,600	8,800	13,400	19,360	
ALAMEDA	DEL NORTE		HUMBOLDT	LAKE	MARIN
MENDOCINO	MONTEREY		NAPA	SAN BENITO	SAN FRANCISCO
SAN LUIS OBISPO	SANTA CRUZ		SANTA BARBARA	SONOMA	VENTURA

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
COLORADO					
REGION 1	15,100	7,600	14,300	18,700	
MORGAN	WASHINGTON		LOGAN	SEDGWICK	YUMA
PHILLIPS					
REGION 2	17,300	8,700	13,800	19,030	
WILD	LARIMER				
REGION 3	20,600	10,300	14,000	22,660	
BOULDER	GILPIN		CLEAR CREEK	JEFFERSON	ADAMS
ARAPAHOE	DOUGLAS				
REGION 4	16,700	8,400	13,400	18,370	
PARK	TELLER		EL PASO		
REGION 5	14,400	7,200	13,200	17,600	
ELBERT	LINCOLN		CHEYENNE	KIT CARSON	
REGION 6	12,600	6,300	13,200	17,600	
BACA	BENT		PROWERS	KIOWA	OTERO
CROWLEY					
REGION 7	17,100	8,600	13,700	18,810	
PUEBLO					
REGION 7B	11,300	5,700	12,300	16,700	
LAS ANIMAS	HUERFANO				
REGION 8	13,100	6,600	12,300	16,700	
SAGUACHE	MINERAL		RIO GRANDE	ALAMOSA	CONEJOR
COSTILLA					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
COLORADO	CONTINUED				
REGION 9	14,700	7,400	12,900	17,300	
DOLORES	MONTEZUMA		SAN JUAN	LA PLATA	ARCHULETA
REGION 10	13,400	6,700	12,300	16,700	
GUNNISON DELTA	HINSDALE		OURAY	SAN MIGUEL	MONTROSE
REGION 11	15,600	7,800	13,400	17,800	
MESA	GARFIELD		RIO BLANCO	MOFFAT	
REGION 12	18,300	9,200	13,800	20,130	
ROUTT PITKIN	JACKSON		GRAND	SUMMIT	EAGLE
REGION 13	14,400	7,200	12,300	16,700	
LAKE	CHAFFEE		FREMONT	CUSTER	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
CONNECTICUT				
HARTFORD	21,100	10,600	15,700	23,210
LITCHFIELD	20,200	10,100	15,200	22,220
MIDDLESEX	21,100	10,600	14,400	23,210
NEW HAVEN	20,200	10,100	17,100	22,220
NEW LONDON(E)	20,900	10,500	14,000	22,990
NEW LONDON(W)	20,900	10,500	14,000	22,990
WINDHAM (E)	18,300	9,200	14,000	20,130
WINDHAM (W)	18,300	9,200	15,200	20,130

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE : DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
DELAWARE				
KENT	16,900	8,500	14,000	18,590
NEW CASTLE	22,000	11,000	14,000	24,200
SUSSEX	16,500	8,300	14,000	18,400

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
FLORIDA					
DISTRICT 1	15,500	7,800	12,400	17,050	
ESCAMBIA	OKALOOSA		SANTA ROSA		
DISTRICT 2	12,700	6,400	12,200	16,600	
BAY HOLMES WAKULLA	CALHOUN JACKSON WALTON		FRANKLIN JEFFERSON WASHINGTON	GADSDEN LEON	GULF LIBERTY
DISTRICT 3	14,200	7,100	12,200	16,600	
ALACHUA HAMILTON UNION	BRADFORD LAFAYETTE		COLUMBIA SUWANNEE	DIXIE MADISON	GILCHRIST TAYLOR
DISTRICT 4	16,400	8,200	13,100	18,040	
BAKER PUTNAM	CLAY ST JOHN		DUVAL	FLAGLER	NASSAU
DISTRICT 5	12,200	6,100	12,200	16,600	
CITRUS	HERNANDO		LEVY	MARION	SUMTER
DISTRICT 6	15,700	7,900	12,500	17,270	
BREVARD VOLUSIA	LAKE		SEMINOLE	ORANGE	OSCEOLA
DISTRICT 7	15,200	7,600	12,200	16,720	
DE SOTO	HARDEE		HIGHLANDS	OKEECHOBEE	POLK
DISTRICT 8	15,000	7,500	12,200	16,600	
HILLSBOROUGH	MANATEE		PASCO	PINELLAS	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
FLORIDA	CONTINUED				
DISTRICT 9	15,600	7,800	12,500	17,160	
CHARLOTTE LEE	COLLIER		GLADES	HENDRY	SARASOTA
DISTRICT 10	16,800	8,400	13,400	18,480	
INDIAN RIVER	MARTIN		PALM BEACH	ST LUCIE	
DISTRICT 11	18,900	9,500	13,400	20,790	
BROWARD	DADE		MONROE		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
GEORGIA					
COASTAL APDC	14,900	7,500	11,900	16,390	
LIBERTY EFFINGHAM	LONG BRYAN		MC INTOSH CHATHAM	GLYNN	CAMDEN
NORTHEAST	15,100	7,600	12,100	16,610	
JACKSON OGLETHORPE	BARROW OCONEE		MADISON WALTON	ELBERT MORGAN	CLARKE GREENE
CEN SAVANNAH R	13,100	6,600	11,300	15,700	
LINCOLN GLASCOCK COLUMBIA	WILKER JEFFERSON BURKE		TALIAFERRO EMANUEL RICHMOND	WARREN SCREVAN	MC DUFFIE JENKINS
ALTAMAHA SO.	11,800	5,900	11,300	15,700	
APPLING TATTNALL	CANDLER TOOMBS		BULLOCH WAYNE	EVANS	JEFF DAVIS
ATLANTA REG	20,600	10,300	13,200	22,660	
COBB ROCKDALE	DOUGLAS GWINNETT		FULTON	CLAYTON	DE KALB
MIDDLE	15,900	8,000	12,700	17,490	
MONROE PEACH	JONES HOUSTON		CRAWFORD	BIBB	TWIGGS
SOUTH	12,300	6,200	11,300	15,700	
TURNER BERRIEN	BEN HILL BROOKS		IRWIN LOWNDES	TIFT LANIER	COOK ECHOLS
MIDDLE FLINT	11,500	5,800	11,300	15,700	
WEBSTER DOOLY	TAYLOR CRISP		MACON SUMPTER	MARION	SCHLEY

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
GEORGIA	CONTINUED				
LOWER CHATTAHO	11,100	5,600	11,300	15,700	
CLAY	COLUMBUS		HARRIS	TALBOT	CHATTAHOOCHEE
STEWART	QUITMAN		RANDOLPH		
OCONEE AREA	12,800	6,400	11,300	15,700	
JASPER	PUTNAM		HANCOCK	BALDWIN	WASHINGTON
WILKINSON	JOHNSON				
COOSA REGION	16,100	8,100	12,900	17,710	
DADE	MARALSON		WALKER	CATOOSA	CHATTOOGA
GORDON	FLOYD		BARTOW	POLK	PAULDING
SOUTHEAST	12,000	6,000	11,300	15,700	
COFFEE	BACON		ATKINSON	WARE	PIERCE
BRANTLEY	CLINCH		CHARLTON		
CHATTAHO-FLINT	14,100	7,100	11,300	15,700	
CARROLL	HEARD		COWETA	TROUP	MERIWETHER
MCINTOSH TRAIL	18,000	9,000	13,200	19,800	
HENRY	FAYETTE		SPALDING	NEWTON	BUTTS
PIKE	LAMAR		UPSON		
SOUTHWEST	11,800	5,900	11,300	15,700	
TERRELL	LEE		CALHOUN	DOUGHERTY	WORTH
EARLY	BAKER		MITCHELL	COLQUITT	MILLER
SEMINOLE	DECATUR		GRADY	THOMAS	
NORTH	16,500	8,300	13,200	18,150	
WHITFIELD	MURRAY		FANNIN	GILMER	PICKENS
CHEROKEE					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
GEORGIA	CONTINUED				
HEART OF GA	11,300	5,700	11,300	15,700	
LAURENS	TREUTLEN		BLECKLEY	PULASKI	DODGE
WILCOX	WHEELER		TELFAIR	MONTGOMERY	
GA. MOUNTAINS	14,400	7,200	11,500	15,900	
TOWNS	RABUN		UNION	LUMPKIN	WHITE
HABERSHAM	DAWSON		FORSYTH	HALL	BANKS
FRANKLIN	HART		STEPHENS		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW SOZMEDIAN	LOW INCOME	MODERATE INCOME	
IDAHO					
DISTRICT I	15,000	7,500	12,300	16,700	
BOUNDARY	BENEWAH		KOOTENAI	SHOSHONE	BONNER
DISRTICT II	16,200	8,100	13,000	17,820	
IDAHO	LEWIS		CLEARWATER	NEZPERCE	LATAH
DISTRICT III	16,300	8,200	13,000	17,930	
CANYON ADA	BOISE ELMORE		GEM PAYETT	VALLEY ADAMS	OWYHEE WASHINGTON
DISTRICT IV	14,000	7,000	12,300	16,700	
CASSIA MINIDOKA	CAMAS LINCOLN		GOODING TWIN FALLS	BLAINE	JEROME
DISTRICT V	15,500	7,800	12,400	17,050	
BINGHAM FRANKLIN	ONEIDA CARIBOU		BEAR LAKE	BANNOCK	POWER
DISTRICT VI	15,200	7,600	12,300	16,720	
BUTTE MADISON	CUSTER TETON		BONNEVILLE JEFFERSON	CLARK LEMHI	FREMONT

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW SOZMEDIAN	LOW INCOME	MODERATE INCOME	
ILLINOIS					
DISTRICT I	17,900	9,000	13,900	19,690	
JO DAVIES MARSHALL	STEPHENSON PUTNAM		OGLE	BUREAU	STARK
NORTHWEST	18,400	9,200	13,900	20,240	
CARROLL	LEE		WHITESIDE		
DISTRICT II	19,000	9,500	14,700	20,900	
DE KALK IROQUOIS	LASALLE		KENDALL	GRUNDY	KANKAKEE
ROCK VALLEY M	21,000	10,500	13,900	23,100	
WINNEBAGO	BOONE				
NORTHEASTERN	23,200	11,600	14,500	25,520	
COOK LAKE	DU PAGE		KANE	MC HENRY	WILL
DISTRICT III(PT	19,400	9,700	13,900	21,340	
KNOX	LIVINGSTON		MC LEAN		
BI-STATE METRO	20,400	10,200	13,900	22,440	
MERCER	HENRY		ROCK ISLAND		
DIST IV (PART)	18,700	9,400	13,900	20,570	
MACON	SANGAMON		CASS	MORGAN	SCOTT
WESTERN	14,300	7,200	13,700	18,100	
FULTON	HANCOCK		HENDERSON	MC DONOUGH	WARREN

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ILLINOIS	CONTINUED				
DISTRICT V	17,300	8,700	14,100	19,030	
FORD	MASON		MENARD	LOGAN	DE WITT
PIATT	CHAMPAIGN		VERMILLION	SHELBY	MOULTRIE
DOUGLAS	COLES		EDGAR		
TRI-COUNTY	21,500	10,800	13,900	23,650	
PEORIA	WOODFORD		TAZEWELL		
DIST VI(PART)	15,000	7,500	13,700	18,100	
CLARK	CUMBERLAND				
TWO RIVER	15,000	7,500	13,700	18,100	
ADAMS	SCHUYLER		BROWN	PIKE	
WEST CENTRAL V	15,500	7,800	13,700	18,100	
CALHOUN	GREENE		JERSEY	MACOUPIN	MONTGOMERY
CHRISTIAN					
SOUTHWESTERN ME	19,500	9,800	14,500	21,450	
MADISON	BOND		ST CLAIR	MONROE	CLINTON
WASHINGTON	RANDOLPH				
SOUTH CENTRAL	14,800	7,400	14,200	18,600	
EFFINGHAM	FAYETTE		MARION		
GREATER EGYPT	14,500	7,300	13,700	18,100	
JEFFERSON	FRANKLIN		PERRY	JACKSON	WILLIAMSON
SOUTHERN FIVE	12,200	6,100	13,700	18,100	
UNION	JOHNSON		ALEXANDER	PULASKI	MASSAC

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
ILLINOIS	CONTINUED				
EMBARRAS	14,800	7,400	13,800	18,200	
JASPER	CRAWFORD		CLAY	LAWRENCE	RICHLAND
GREATER WABASH	13,900	7,000	14,100	18,500	
WAYNE	EDWARDS		WABASH	WHITE	
SOUTHEASTERN	12,300	6,200	13,700	18,100	
HAMILTON	SALINE		GALLATIN	POPE	HARDIN

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
INDIANA					
DISTRICT 1A	21,600	10,800	14,000	23,760	
LAKE	PORTER				
DISTRICT 1B	15,700	7,900	13,800	18,200	
NEWTON	JASPER		STARKE	PULASKI	
DISTRICT 2	18,900	9,500	14,000	20,790	
LA PORTE	ST JOSEPH		ELKHART	MARSHALL	KOSCUISKO
DISTRICT 3A	16,900	8,500	13,800	18,590	
WHITLEY	NOBLE		LA GRANGE	HUNTINGTON	STEUBEN
DISTRICT 3B	19,900	10,000	14,000	21,890	
DE KALB	ALLEN		WELLS	ADAMS	
DISTRICT 4	17,500	8,800	14,000	19,250	
BENTON CARROLL	WHITE MONTGOMERY		WARREN CLINTON	FOUNTAIN	TIPPECANOE
DISTRICT 5	17,700	8,900	14,000	19,470	
FULTON TIPTON	CASS		MIAMI	WABASH	HOWARD
DISTRICT 6	17,500	8,800	14,000	19,250	
GRANT RANDOLPH	BLACKFORD HENRY		JAY	MADISON	DELWARE
DISTRICT 7	16,400	8,200	13,800	18,200	
PUTNAM SULLIVAN	PARKE		VIGO	VERMILLION	CLAY

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
INDIANA	CONTINUED				
DISTRICT 8	20,000	10,000	14,000	22,000	
BOONE MORGAN	HAMILTON JOHNSON		HENDRICKS SHELBY	MARION	HANCOCK
DISTRICT 9	16,700	8,400	13,800	18,370	
WAYNE	RUSH		FAYETTE	UNION	FRANKLIN
DISTRICT 10	15,900	8,000	13,800	18,200	
OWEN	MONROE				
DISTRICT 11	16,700	8,400	13,800	18,370	
BROWN	BARTHOLOMEW		DECATUR	JACKSON	JENNINGS
DISTRICT 12	16,100	8,100	13,800	18,200	
RIPLEY	DEARBORN		OHIO	JEFFERSON	SWITZERLAND
DISTRICT 13A	15,500	7,800	13,800	18,200	
GREENE	LAWRENCE		MARTIN	DAVIESS	KNOX
DISTRICT 13B	16,500	8,300	13,800	18,200	
GIBSON	PIKE		VANDERBURGH	POSEY	WARRICK
DISTRICT 14	16,100	8,100	13,800	18,200	
WASHINGTON	SCOTT		CLARK	HARRISON	FLOYD
DISTRICT 15	15,300	7,700	13,800	18,200	
ORANGE	DUBOIS		CRAWFORD	SPENCER	PERRY

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
IOWA					
DISTRICT 1	14,400	7,200	13,200	17,600	
ALLAMAKEE	CLAYTON		FAYETTE	HOWARD	WINNESHIEK
DISTRICT 2	16,100	8,100	13,600	18,000	
CERRO GORDO MITCHELL	FLOYD WINNEBAGO		FRANKLIN WORTH	HANCOCK	KOSSUTH
DISTRICT 3	15,400	7,700	14,700	19,100	
BUENA VISTA O BRIEN	CLAY OSCEOLA		DICKINSON PALO ALTO	EMMET SIOUX	LYON
DISTRICT 4	16,100	8,100	13,500	17,900	
CHEROKEE	IDA		MONONA	PLYMOUTH	WOODBURY
DISTRICT 5	16,200	8,100	13,200	17,820	
CALHOUN WRIGHT	HAMILTON		HUMBOLDT	POCAHONTAS	WEBSTER
DISTRICT 6	16,900	8,500	14,300	18,700	
HARDIN	MARSHALL		POWESHIEK	TAMA	
DISTRICT 7	17,200	8,600	13,900	18,920	
BLACK HAWK GRUNDY	BREMER		BUCHANAN	BUTLER	CHICKOSAW
DISTRICT 8	17,900	9,000	14,300	19,690	
CEDAR	CLINTON		DELAWARE	DUBUQUE	JACKSON
DISTRICT 9	20,400	10,200	13,700	22,440	
MUSCATINE	SCOTT				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
IOWA	CONTINUED				
DISTRICT 10	18,200	9,100	13,700	20,020	
BENTON WASHINGTON	IOWA		JOHNSON	JONES	LINN
DISTRICT 11	18,700	9,400	14,200	20,570	
BOONE POLK	DALLAS STORY		JASPER WARREN	MADISON	MARION
DISTRICT 12	15,000	7,500	13,200	17,600	
AUDUBON SAC	CARROLL		CRAWFORD	GREENE	GUTHRIE
DISTRICT 13	16,400	8,200	14,500	18,900	
CASS PAGE	FREMONT POTTAWATTAMIE		HARRISON SHELBY	MILLS	MONTGOMERY
DISTRICT 14	13,100	6,600	13,200	17,600	
ADAIR TAYLOR	ADAMS UNION		CLARKE	DECATUR	RINGGOLD
DISTRICT 15	14,000	7,000	13,200	17,600	
APPANOOSE MAHASKA	DAVIS MONROE		JEFFERSON VAN BUREN	KEOKUK WAPELLO	LUCAS WAYNE
DISTRICT 16	17,700	8,900	14,400	19,470	
DES MOINES	HENRY		LEE	LOUISA	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
KANSAS					
NORTHWEST	15,100	7,600	12,300	16,700	
CHEYENNE	RAWLINS		DECATUR	NORTON	PHILLIPS
SMITH	SHERMAN		THOMAS	SHERIDAN	GRAHAM
ROOKS	OSBORNE		WALLACE	LOGAN	GOVE
TREGO	ELLIS		RUSSELL		
GR. SOUTHWEST	16,600	8,300	13,300	18,260	
GREELEY	WICHITA		SCOTT	LANE	NESS
HAMILTON	KEARNY		FINNEY	HODGEMAN	STANTON
GRANT	HASKELL		GRAY	FORD	MORTON
STEVENS	SEWARD		MEADE	CLARK	
NORTH CENTRAL	14,000	7,000	12,300	16,700	
JEWELL	REPUBLIC		MITCHELL	CLOUD	LINCOLN
OTTAWA	ELLSWORTH		SALINE		
GOLDEN BELT	16,100	8,100	12,900	17,710	
RUSH	BARTON		PAWNEE	STAFFORD	EDWARDS
INDIAN HILL	15,900	8,000	12,700	17,490	
KIOWA	PRATT		COMANCHE	BARBER	
MID-STATE	16,300	8,200	13,000	17,930	
RICE	MC PHERSON		RENO		
CHIKASKIA	14,500	7,300	12,300	16,700	
KINGMAN	HARPER		SUMNER		
BLUE STEM	13,900	7,000	12,300	16,700	
GREENWOOD	ELK		CHAUTAUGUA	COWLEY	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
KANSAS	CONTINUED				
CENTRAL PLAIN	17,900	9,000	13,300	19,690	
HARVEY	SEDGWICK		BUTLER		
FLINT HILLS	14,200	7,100	12,300	16,700	
DICKINSON	MORRIS		MARION	CHASE	LYONS
BIG LAKE	14,500	7,300	12,300	16,700	
CLAY	RILEY		POTTAWATOMIE	GEARY	
MO-KAN	14,800	7,400	12,300	16,700	
DONIPHAN	ATCHISON				
MARC	19,000	9,500	13,300	20,900	
LEAVENWORTH	WYANDOTTE		JOHNSON		
SOUUTHEAST	13,000	6,500	12,300	16,700	
WOODSEN	ALLEN		BOURBON	WILSON	NEOSHO
CRAWFORD	MONTGOMERY		LABETTE	CHEROKEE	
IN PROCESS	16,400	8,200	13,100	18,040	
JEFFERSON	SHAWNEE		DOUGLAS	OSAGE	FRANKLIN
MIAMI	COFFEY		ANDERSON	LINN	
UNORGANIZED	13,400	6,700	12,300	16,700	
WASHINGTON	MARSHALL		NEMAHA	BROWN	JACKSON
WABAUNSEE					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
KENTUCKY					
BARRON RIVER	11,600	5,800	10,100	15,600	
ALLEN	BARREN		BUTLER	EDMONSON	HART
LOGAN	METCALFE		MONROE	SIMPSON	WARREN
BIG SANDY	10,400	5,200	10,100	15,600	
FLOYD	JOHNSON		MAGOFFIN	MARTIN	PIKE
BLUEGRASS	15,400	7,700	12,300	16,940	
ANDERSON	BOURBON		BOYLE	CLARK	ESTILL
FAYETTE	FRANKLIN		GARRARD	HARRISON	JESSAMINE
LINCOLN	MADISON		MERCER	NICHOLAS	POWELL
SCOTT	WOODFORD				
BUFFALO TRACE	12,000	6,000	10,100	15,600	
BRACKEN	FLEMING		LEWIS	MASON	ROBERTSON
CUMBERLAND V	9,100	4,600	10,100	15,600	
BELL	CLAY		HARLAN	JACKSON	KNOX
LAUREL	ROCKCASTLE		WHITLEY		
FIVCO	13,100	6,600	10,500	15,600	
BOYD	CARTER		ELLIOTT	GREENUP	LAWRENCE
GATEWAY	11,300	5,700	10,100	15,600	
BATH	MENIFEE		MONTGOMERY	MORGAN	ROWAN
GREEN RIVER	15,000	7,500	12,000	16,500	
DAVIESS	HENDERSON		MC LEAN	OHIO	UNION
WEBSTER	HANCOCK				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
KENTUCKY	CONTINUED				
KENTUCKIANA	16,800	8,400	13,500	18,480	
BULLITT	HENRY		JEFFERSON	OLDHAM	SHELBY
SPENCER	TRIMBLE				
KENTUCKY R	8,100	4,100	10,100	15,600	
BREATHITT	KNOTT		LEE	LESLIE	LETCHER
OWSLEY	PERRY		WOLFE		
LAKE CUMBER	10,200	5,100	10,100	15,600	
ADAIR	CASEY		CLINTON	CUMBERLAND	GREEN
MC CREARY	PULASKI		RUSSELL	TAYLOR	WAYNE
LINCOLN TRAIL	13,400	6,700	10,700	15,600	
BRECKINRIDGE	GRAYSON		HARDIN	LARUE	MARION
MEADE	NELSON		WASHINGTON		
NORTHERN	17,000	8,500	13,600	18,700	
BOONE	CAMPBELL		CARROLL	GALLATIN	GRANT
KENTON	OWEN		PENDLETON		
PENNYRILE	13,000	6,500	10,400	15,600	
CALDWELL	CHRISTIAN		CRITTENDEN	HOPKINS	LIVINGSTON
LYON	MUHLENBERG		TODD	TRIGG	
PURCHASE	13,700	6,900	11,000	15,600	
BALLARD	CALLOWAY		CARLISLE	FULTON	GRAVES
HICKMAN	MARSHALL		MCCRACKEN		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
LOUISIANA					
ACADIANA	12,000	6,000	10,800	15,600	
ACADIA	EVANGELINE		IBERIA	LAFAYETTE	ST LANDRY
ST MARTIN	ST MARY		VERMILLION		
CENTRAL REG	11,500	5,800	10,700	15,600	
AVOYELLES	CATAHOULA		CONCORDIA	GRANT	LASALLE
RAPIDES	VERNON		WINN		
FLORIDA	14,100	7,100	11,300	15,700	
ASCENSION	E BATON ROUGE		E FELICIANA	IBERVILLE	LIVINGSTON
POINTE COUPEE	ST HELENA		TANGIPAHOA	WASHINGTON	W BATON ROUGE
W FELICIANA					
NORTHEAST	10,800	5,400	10,800	15,600	
CALDWELL	E CARROLL		FRANKLIN	JACKSON	MADISON
MOREHOUSE	OUACHITA		RICHLAND	TENSAS	UNION
W CARROLL					
NORHWEST	12,300	6,200	10,700	15,600	
BIENVILLE	BOSSIER		CADDO	CLAIBURNE	DESOTA
LINCOLN	NATCHITOCHES		RED RIVER	SABINE	WEBSTER
IMPERIAL CAL	13,900	7,000	11,200	15,600	
ALLEN	BEAUREGARD		CALCASIEU	CAMERON	JEFF DAVIS
TECHE	15,800	7,900	12,600	17,380	
ASSUMPTION	LA FOURCHE		ST CHAS	ST JAMES	ST JOHN
TERREBONNE					
METRO-REG	17,000	8,500	13,600	18,700	
JEFFERSON	ORLEANS		PLAQUEMINES	ST BERNARD	ST TAMMANY

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
MAINE				
ANDROSCOGGIN	15,000	7,500	13,800	18,200
AROOSTOOK	12,500	6,300	13,000	17,400
CUMBERLAND	15,300	7,700	14,200	18,600
FRANKLIN	14,600	7,300	12,700	17,100
HANCOCK	13,800	6,900	13,400	17,800
KENNEBEC	16,200	8,100	13,600	18,000
KNOX	13,300	6,700	13,200	17,600
LINCOLN	14,000	7,000	12,600	17,000
OXFORD	14,700	7,400	13,300	17,700
PENOBSCOT	15,000	7,500	13,900	18,300
PISCATQUIS	13,100	6,600	13,800	18,200
SAGADAHOC	14,800	7,400	13,300	17,700
SOMERSET	13,600	6,800	13,300	17,700
WALDO	13,600	6,800	13,000	17,400
WASHINGTON	11,100	5,600	13,600	18,000
YORK	15,400	7,700	13,400	17,800

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MARYLAND					
LOWER EASTERN S	15,400	7,700	14,000	18,400	
DORCHESTER	WICOMICO		WORCESTER	SOMERSET	
UPPER EAST S	15,700	7,900	14,000	18,400	
KENT	QUEEN ANNES		CAROLINE	TALBOT	
WILMAPCO	22,000	11,000	14,000	24,200	
CECIL					
TRI-CTY SOUTH	20,700	10,400	14,000	22,770	
CHARLES	CALVERT		ST MARYS		
WASHINGTON	26,000	13,000	14,000	28,600	
MONTGOMERY	PRINCE GEORGES				
BALTIMORE-NP	21,300	10,700	14,000	23,430	
BALTIMORE	HARFORD		CARROLL	HOWARD	ANNE ARUNDEL
FREDERICK	18,400	9,200	14,000	20,240	
FREDERICK					
TRI-COUNTY-W=	15,500	7,800	14,000	18,400	
GARRETT	ALLEGANY		WASHINGTON		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MASSACHUSETTS					
DISTRICT 1	18,800	9,400	15,300	20,680	
BERKSHIRE	FRANKLIN		HAMPSHIRE	HAMPDEN	WORCESTER
DISTRICT 2	18,600	9,300	14,000	20,460	
MIDDLESEX	ESSEX		SUFFOLK	NORFOLK	BRISTOL
PLYMOUTH	BARNSTABLE		DUKES	NANTUCKET	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MICHIGAN					
REGION 1	22,200	11,100	15,100	24,420	
LIVINGSTON	MACOMB		MONROE	OAKLAND	ST CLAIR
WASHTENAW	WAYNE				
REGION 2	19,900	10,000	14,000	21,890	
HILLSDALE	JACKSON		LENAWEE		
REGION 3	19,300	9,700	14,000	21,230	
BARRY	BRANCH		CALHOUN	KALAMAZOO	ST JOSEPH
REGION 4	18,900	9,500	14,000	20,790	
BERRIEN	CASS		VAN BUREN		
REGION 5	20,000	10,000	14,300	22,000	
GENESEE	LAPEER		SHIAWASSEE		
REGION 6	19,500	9,800	14,000	21,450	
CLINTON	EATON		INGHAM		
REGION 7	17,600	8,800	15,800	20,200	
ARENAC	BAY		CLARE	GLADWIN	GRATIOT
HURON	IOSCO		ISABELLA	MIDLAND	OGEMAW
ROSECOMMON	SAGINAW		SANILAC	TUSCOLA	
REGION 8	18,200	9,100	15,100	20,020	
ALLEGAN	IONIA		KENT	LAKE	MASON
MECOSTA	MONTCALM		NEWAYGO	OSCEOLA	
REGION 9	15,000	7,500	14,000	18,400	
ALCONA	ALPENA		CHEBOYGAN	CRAWFORD	MONTMORENCY
OSCODA	OTSEGO		PRESQUE ISLE		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MICHIGAN CONTINUED					
REGION 10	15,800	7,900	14,000	18,400	
ANTRIM	BENZIE		CHARLEVOIX	EMMET	GRAND TRAVERSE
KALKASKA	LEELANAU		MANISTEE	MISSAUKEE	WEXFORD
REGION 11	13,800	6,900	14,000	18,400	
CHIPPEWA	LUCE		MACKINAC		
REGION 12	15,900	8,000	14,000	18,400	
ALGER	DELTA		DICKINSON	MARQUETTE	MENOMINEE
SCHOOLCRAFT					
REGION 13	13,200	6,600	15,500	19,900	
BARAGA	GOGEBIC		HOUGHTON	IRON	KEEWEENAW
ONTONAGON					
REGION 14	18,800	9,400	14,000	20,680	
MUSKEGON	OCEANA		OTTAWA		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MINNESOTA					
RDC 1	14,400	7,200	14,600	19,000	
KITTSON	MARSHALL		NORMAN	PENNINGTON	POLK
REDLAKE	ROSEAU				
RDC2	12,300	6,200	13,700	18,100	
BELTRAMI	CLEARWATER		HUBBARD	LK OF WOODS	MAHNOMEN
RDC-3	16,300	8,200	13,100	17,930	
AITKIN	CARLTON		COOK	ITASCA	KOOCHICHING
LAKE	ST LOUIS				
RDC 4	13,800	6,900	12,800	17,200	
BECKER	CLAY		DOUGLAS	GRANT	OTTER TAIL
POPE	STEVENS		TRAVERSE	WILKIN	
RDC 5	12,900	6,500	13,100	17,500	
CASS	CROW WING		MORRISON	TODD	WADENA
RDC VI-E	14,900	7,500	14,100	18,500	
KANDIYOHI	MC LEOD		MEEKER	RENVILLE	
RDC VI-W	12,900	6,500	14,000	18,400	
BIG STONE	CHIPPEWA		LAC QUI PARLE	SWIFT	YELLOW MEDICINE
RDC VII-E	17,600	8,800	16,100	20,500	
CHISAGO	ISANTI		KANABEC	MILLE LACS	PINE
RDC VII-W	18,400	9,200	13,200	20,240	
BENTON	SHERBURNE		STEARNS	WRIGHT	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MINNESOTA	CONTINUED				
RDC VIII	14,400	7,200	13,400	17,800	
COTTONWOOD	JACKSON		LINCOLN	LYON	MURRAY
NOBLES	PIPESTONE		REDWOOD	ROCK	
RDC IX	16,000	8,000	14,100	18,500	
BLUE EARTH	BROWN		FARIBAULT	LESUEUR	MARTIN
NICOLL	SIBLEY		WASECA	WATONWAN	
RDC X	17,700	8,900	14,000	19,470	
DODGE	FILMORE		FREEBORN	GOODHUE	HOUSTON
MOWER	OLMSTED		RICE	STEELE	WABASHA
WINONA					
RDC XI	22,600	11,300	15,700	24,860	
ANOKA	CARVER		DAKOTA	HENNEPIN	RAMSEY
SCOTT	WASHINGTON				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MISSISSIPPI					
SOUTHWEST	9,800	4,900	9,400	15,600	
CLAIBORNE	JEFFERSON		ADAMS	FRANKLIN	WILKINSON
AMITE	PIKE		WALTHALL	LINCOLN	LAWRENCE
CENTRAL	12,700	6,400	10,200	15,600	
YAZOO	MADISON		WARREN	HINDS	COPIAH
RANKIN	SIMPSON				
NORTH CENTRAL	9,400	4,700	9,000	15,600	
YALOBUSHA	GRENADA		LEFLORE	CARROLL	MONTGOMERY
HOLMES	ATTALA				
SOUTH DELTA	8,700	4,400	9,300	15,600	
BOLIVAR	HUMPHREYS		SHARKEY	ISSAQUENA	WASHINGTON
SUNFLOWER					
NORTH DELTA	10,000	5,000	8,500	15,600	
COAHOMA	DE SOTO		QUITMAN	PANOLA	TALLAHATCHIE
TATE	TUNICA				
NORTH EAST	11,000	5,500	8,800	15,600	
ALCORN	BENTON		MARSHALL	PRENTISS	TIPPAH
TISHOMINGO					
THREE RIVER	11,500	5,800	9,400	15,600	
CALHOUN	CHICKASAW		ITAWAMBA	LAFAYETTE	LEE
PONTOTOC	MONROE		UNION		
GOLDEN TRI	11,200	5,600	9,000	15,600	
CLAY	LOWNDES		CHOCTAW	OKTIBBEHA	NOXUBEE
WEBSTER	WINSTON				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MISSISSIPPI CONTINUED					
EAST CENTRAL	10,300	5,200	9,300	15,600	
CLARKE	JASPER		LEAKE	KEMPER	LAUDERDALE
NEWTON	NESHOBA		SMITH	SCOTT	
SOUTHERN	12,200	6,100	10,500	15,600	
COVINGTON	JONES		WAYNE	JEFF DAVIS	MARION
LAMAR	FORREST		PERRY	GREENE	GEORGE
STONE	PEARL RIVER		JACKSON	HARRISON	HANCOCK

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MISSOURI					
LAKE OF OZARKS	11,500	5,800	10,500	15,600	
CAMDEN	LACLEDE		MILLER	MORGAN	PULASKI
MARK TWAIN	13,800	6,900	11,600	16,000	
LEWIS RALLS	MACON RANDOLPH		MARION SHELBY	MONROE	PIKE
OZARK FOOTHILLS	9,700	4,900	10,500	15,600	
BUTLER	CARTER		REYNOLDS	RIPLEY	WAYNE
OZARK GATEWAY	12,100	6,100	10,500	15,600	
BARTON	JASPER		MC DONALD	NEWTON	
SHOW-ME	14,000	7,000	11,200	15,600	
JOHNSON	LAFAYETTE		PETTIS		
SO. CENT. OZARK	9,500	4,800	10,500	15,600	
DOUGLAS TEXAS	HOWELL WRIGHT		OREGON	OZARK	SHANNON
SOUTHEAST	13,600	6,800	10,900	15,600	
BOLLINGER ST FRANCOIS	CAPE GIRARDEAU ST GENEVIEVE		IRON	MADISON	PERRY
SOUTHWEST	11,900	6,000	10,500	15,600	
BARRY LAWRENCE	CHRISTIAN POLK		DADE STONE	DALLAS TANEY	GREENE WEBSTER
KAYSINGER B	10,600	5,300	10,500	15,600	
BATES ST CLAIR	BENTON VERNON		CEDAR	HENRY	HICKORY

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MISSOURI	CONTINUED				
GREEN HILLS	11,200	5,600	11,700	16,100	
CALDWELL LIVINGSTON	DAVIESS MERCER		GRUNDY PUTNAM	HARRISON SULLIVAN	LINN
BOOTHEEL	10,700	5,400	10,500	15,600	
DUNKLIN STODDARD	MISSISSIPPI		NEW MADRID	PEMISCOT	SCOTT
NORTHWEST	12,100	6,100	11,600	16,000	
ATCHISON	GENTRY		HOLT	NODAWAY	WORTH
NORTHEAST	11,900	6,000	11,800	16,200	
ADAIR	CLARK		KNOX	SCHUYLER	SCOTLAND
MO-KAN	14,100	7,100	12,700	17,100	
ANDREW	BUCHANAN		CLINTON	DE KALB	
VALLEY-REGION	12,800	6,400	10,500	15,600	
CARROLL	CHARITON		SALINE		
MID-MISSOURI	15,900	8,000	12,700	17,490	
AUDRAIN HOWARD	BOONE MONITEAU		CALLAWAY OSAGE	COLE	COOPER
MERAMEC	12,900	6,500	10,500	15,600	
CRAWFORD WASHINGTON	DENT		GASCONADE	MARIES	PHELPS
E-W GATEWAY	20,000	10,000	12,700	22,000	
ST LOUIS CITY	JEFFERSON		ST CHARLES	ST LOUIS	FRANKLIN

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MISSOURI	CONTINUED				
MID-AMERICA	19,700	9,900	12,700	21,670	
CASS	CLAY		JACKSON	PLATTE	RAY
BOONSLICK	14,900	7,500	11,900	16,390	
MONTGOMERY	LINCOLN		WARREN		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MONTANA					
DISTRICT 1	15,000	7,500	12,000	16,500	
DANIELS	PHILLIPS		ROOSEVELT	SHERIDAN	VALLEY
DISTRICT 2	15,300	7,700	12,200	16,830	
DAWSON WIBAUX	GARFIELD		MC CONE	PRAIRIE	RICHLAND
DISTRICT 3	14,200	7,100	12,000	16,400	
CARTER TREASURE	CUSTER		FALLON	POWDER RIVER	ROSEBUD
DISTRICT 4	15,200	7,600	12,200	16,720	
BLAINE	HILL		LIBERTY		
DISTRICT 5	15,100	7,600	12,100	16,610	
CASCADE TOOLE	CHOUTEAU		GLACIER	PONDERA	TETON
DISTRICT 6	14,200	7,100	12,000	16,400	
FERGUS	GOLDEN VALLEY		JUDITH BASIN	PETROLEUM	WHEATLAND
DISTRICT 7	14,000	7,000	12,200	16,600	
BIG HORN	CARBON		STILLWATER	SWEET GRASS	YELLOWSTONE
DISTRICT 8	17,000	8,500	13,600	18,700	
BROADWATER	JEFFERSON		LEWIS&CLARK		
DISTRICT 9	14,900	7,500	12,000	16,400	
GALLATIN	MEAGHER		PARK		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
MONTANA	CONTINUED				
DISTRICT 10	15,100	7,600	12,100	16,610	
FLATHEAD	LAKE		LINCOLN	SANDERS	
DISTRICT 11	15,300	7,700	12,200	16,830	
MINERAL	MISSOULA		RAVALLI		
DISTRICT 12	15,000	7,500	12,000	16,500	
BEAVERHEAD	DEER LODGE		GRANITE	MADISON	POWELL
SILVER BOW					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEBRASKA					
SCOTTSBLUFF	14,800	7,400	13,900	18,300	
SIOUX	DAWES		SHERIDAN	BOX BUTTE	SCOTTS BLUFF
MORRILL	GARDEN		BANNER	CHEYENNE	DEUEL
KIMBALL					
AINSWORTH	12,100	6,100	15,000	19,400	
CHERRY	KEYA PAHA		BOYD	BROWN	ROCK
HOLT	BLAINE		LOUP	GARFIELD	WHEELER
CUSTER	VALLEY		GREELEY	SHERMAN	
NORTH PLATTE	14,700	7,400	14,600	19,000	
GRANT	HOOKER		THOMAS	ARTHUR	MC PHERSON
LOGAN	KEITH		LINCOLN	PERKINS	CHASE
HAYES	FRONTIER		GOSPER	DUNDY	HITCHCOCK
RED WILLOW					
KEARNEY	14,800	7,400	15,200	19,600	
HOWARD	NARRICK		BUFFALO	HALL	HAMILTON
PHELPS	KEARNEY		ADAMS	CLAY	FURNAS
HARLAN	FRANKLIN		WEBSTER	NUCKOLLS	
NORFOLK	14,100	7,100	13,300	17,700	
KNOX	CEDAR		DIXON	DAKOTA	THURSTON
CUMING	BURT		ANTELOPE	PIERCE	WAYNE
BOONE	MADISON		PLATTE	COLFAX	NANCE
STANTON					
OMAHA	17,800	8,900	14,700	19,580	
DODGE	WASHINGTON		DOUGLAS	SAUNDERS	SARPY
CASS	OTOE				
LINCOLN	15,100	7,600	13,600	18,000	
BUTLER	POLK		YORK	SEWARD	FILLMORE
LANCASTER	SALINE		THAYER	JEFFERSON	GAGE
JOHNSON	PAWNEE		RICHARDSON	NEMAHA	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEVADA					
DISTRICT 6	16,100	8,100	13,900	18,300	
HUMBOLDT	PERSHING		LANDER	ELKO	EUREKA
WHITE PINE	NYE				
DISTRICT 7	18,700	9,400	13,900	20,570	
WASHOE	STOREY		CARSON CITY	DOUGLAS	LYON
CHURCHILL	MINERAL		ESMERALDA	CLARK	LINCOLN

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEW HAMPSHIRE					
DISTRICT III VE	15,600	7,800	14,000	18,400	
COOS	CARROLL		GRAFTON	BELKNAP	SULLIVAN
DISTRICT IV VER	17,400	8,700	14,300	19,140	
CHESHIRE	HILLSBORO		MERRIMACK	ROCKINGHAM	STRAFFORD

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEW JERESY					
DISTRICT I	21,700	10,900	18,000	23,870	
BERGEN	ESSEX		HUDSON	HUNTERDON	MERCER
MIDDLESEX	MORRIS		PASSAIC	SOMMERSET	SUSSEX
UNION	WARREN				
DISTRICT 11	19,300	9,700	14,700	21,230	
ATLANTIC	BURLINGTON		CAPE MAY	MONMOUTH	OCEAN
DISTRICT 111	20,200	10,100	14,000	22,220	
CAMDEN	CUMBERLAND		GLOUCESTER	SALEM	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEW MEXICO					
SAN JUAN	13,600	6,800	11,200	15,600	
SAN JUAN	MC KINLEY				
NORHT CENTRAL	10,200	5,100	10,800	15,600	
COLFAX	MORA		RIO ARRIBA	SAN MIGUEL	SANTA FE
TAOS					
MID RIO GRANDE	16,000	8,000	12,800	17,600	
BERNALILLO	LOS ALMOS		SANDOVAL	TORRANCE	VALENCIA
EASTERN PLS	11,600	5,800	13,100	17,500	
CURRY	DE BACA		GUADALUPE	HARDING	QUAY
ROOSEVELT	UNION				
SOUTH WEST	12,900	6,500	11,000	15,600	
CATRON	GRANT		HIDALGO	LUNA	
SOUTHEASTERN	14,100	7,100	11,300	15,700	
CHAVES	EDDY		LEA	LINCOLN	OTERO
SOUTH RIO GRAND	12,200	6,100	10,600	15,600	
DONA ANA	SIERRA		SOCORRO		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NEW YORK					
DISTRICT 8	17,600	8,800	14,800	19,360	
DUTCHESS	NASSAU		ORANGE	PUTNAM	ROCKLAND
SUFFOLK	SULLIVAN		ULSTER	WESTCHESTER	
DISTRICT 7	20,800	10,400	14,000	22,880	
ALBANY	COLUMBIA		FULTON	GREENE	MONTGOMERY
RENSSELAER	SARATOGA		SCHENECTADY	SCHOHARIE	
DISTRICT 6	16,700	8,400	14,700	19,100	
CLINTON	ESSEX		HAMILTON	WARREN	WASHINGTON
DISTRICT 5	20,000	10,000	14,000	22,000	
FRANKLIN	JEFFERSON		LEWIS	ST LAWRENCE	
DISTRICT 4	15,600	7,800	14,000	18,400	
CAYUGA	CORTLAND		MADISON	ONEIDA	ONONDAGA
OSWEGO	HERKIMER				
DISTRICT 3	15,400	7,700	14,000	18,400	
BROOME	CHEMUNG		CHENANGO	DELAWARE	OTSEGO
SCHUYLER	STEUBEN		TIOGA	TOMPKINS	
DISTRICT 2	18,300	9,200	14,400	20,130	
GENESEE	LIVINGSTON		MONROE	ONTARIO	ORLEANS
SENECA	WAYNE		WYOMING	YATES	
DISTRICT 1	21,200	10,600	17,200	23,320	
ALLEGANY	CATTARAUGUS		CHAUTAUQUA	ERIE	NIAGARA

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NORTH CAROLINA					
DISTRICT A	12,200	6,100	11,200	15,600	
MACON	SWAIN		CLAY	CHEROKEE	GRAHAM
JACKSON	HAYWOOD				
DISTRICT B	14,800	7,400	11,800	16,280	
BUNCOMBE	TRANSYLVANIA		HENDERSON	MADISON	
DISTRICT C	14,500	7,300	11,600	16,000	
MC DOWELL	POLK		RUTHERFORD	CLEVELAND	
DISTRICT D	11,400	5,700	11,200	15,600	
YANCEY	ASHE		ALLEGHANY	AVERY	MITCHELL
WATAUGA	WILKES				
DISTRICT E	15,900	8,000	12,800	17,490	
ALEXANDER	CALDWELL		BURKE	CATAWBA	
DISTRICT F	17,800	8,900	13,800	19,580	
STANLY	MECKLENBURG		CABARRUS	GASTON	LINCOLN
UNION	ROWAN		TREDELL		
DISTRICT G	17,300	8,700	13,800	19,030	
ALAMANCE	GUILFORD		RANDOLPH	DAVIDSON	ROCHINGHAM
CASWELL					
DISTRICT H	13,000	6,500	11,200	15,600	
MOORE	RICHMOND		MONTGOMERY	ANSON	
DISTRICT I	16,800	8,400	13,400	18,480	
STOKES	SURRY		FORSYTH	DAVIE	YADKIN

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NORTH CAROLINA CONTINUED					
DISTRICT J	16,400	8,200	13,200	18,040	
DURHAM	ORANGE		CHATHAM	WAKE	LEE
JOHNSTON					
DISTRICT K	12,500	6,300	11,200	15,600	
VANCE	FRANKLIN		GRANVILLE	PERSON	WARREN
DISTRICT L	12,100	6,100	11,200	15,600	
HALIFAX	NORTHAMPTON		NASH	EDGECOMBE	WILSON
DISTRICT M	13,600	6,800	11,200	15,600	
SAMPSON	CUMBERLAND		HARNETT		
DISTRICT N	12,000	6,000	11,200	15,600	
BLADEN	SCOTLAND		ROBESON	HOKE	
DISTRICT O	14,100	7,100	11,300	15,700	
BRUNSWICK	PENDER		NEW HANOVER	COLUMBUS	
DISTRICT P	13,300	6,700	11,200	15,600	
CARTERET	WAYNE		ONSLOW	DUPLIN	LENOIR
CRAVEN	PAMLICO		GREENE	JONES	
DISTRICT Q	12,000	6,000	11,200	15,600	
PITT	BEAUFORT		MARTIN	BERTIE	HERTFORD
DISTRICT R	12,900	6,500	11,200	15,600	
TYRRELL	CAMDEN		CURRITUCK	PASQUOTANK	CHOWAN
GATES	PERQUIMANS		WASHINGTON	HYDE	DARE

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
NORTH DAKOTA					
DISTRICT 1	15,700	7,900	12,900	17,300	
DIVIDE	MC KENZIE		WILLIAMS		
DISTRICT 2	14,700	7,400	13,600	18,000	
BURKE	MOUNTRAIL		RENVILLE	BOTTINEAU	WARD
MC HENRY	PIERCE				
DISTRICT 3	13,500	6,800	11,800	16,200	
ROLETTE	TOWNER		CAVALIER	BENSON	RAMSEY
EDDY					
DISTRICT 4	15,200	7,600	12,200	16,720	
PEMBINA	WALSH		NELSON	GRAND FORKS	
DISTRICT 5	15,300	7,700	12,700	17,100	
STEELE	TRAILL		CASS	RANSOM	SARGENT
RICHLAND					
DISTRICT 6	14,600	7,300	13,000	17,400	
WELLS	FOSTER		GRIGGS	STUTSMAN	BARNES
LOGAN	LA MOURE		MC INTOSH	DICKEY	
DISTRICT 7	14,200	7,100	12,100	16,500	
MC LEAN	SHERIDAN		MERCER	OLIVER	BURLEIGH
MORTON	GRANT		EMMONS	SIOUX	KIDDER
DISTRICT 8	13,900	7,000	13,400	17,800	
ADAMS	BILLINGS		GOLDEN VALLEY	BOWMAN	SLOPE
DUNN	HETTINGER		STARK		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
OHIO					
DISTRICT 1	18,500	9,300	14,000	20,350	
WILLIAMS	FULTON		LUCAS	OTTAWA	SANDUSKY
SENECA	HANCOCK		WYANDOT	HARDIN	PUTNAM
HENRY	DEFIANCE		PAULDING	VAN WERT	ALLEN
AUGLAIZE	MERCER		SHELBY	DARKE	MIAMI
WOOD					
DISTRICT 11	18,400	9,200	14,000	20,240	
PREBLE	MONTGOMERY		GREENE	FAYETTE	BUTLER
WARREN	CLINTON		HAMILTON	CLERMONT	BROWN
HIGHLAND	PIKE		ADAMS	SCIOTO	
DISTRICT III	19,300	9,700	14,000	21,230	
ASHTABULA	LAKE		GEAUGA	CUYAHOGA	LORAINE
ERIE	HURON		MEDINA	SUMMIT	PORTAGE
TRUMBULL	MAHONING		COLUMBIANA	CARROLL	JEFFERSON
STARK	WAYNE		HOLMES	ASHLAND	RICHLAND
CRAWFORD					
DISTRICT 4	15,000	7,500	14,000	18,400	
TUSCARAWAS	HARRISON		GUERNSEY	BELMONT	MUSKINGUM
NOBLE	MONROE		MORGAN	WASHINGTON	ATHENS
VINTON	JACKSON		MEIGS	GALLIA	LAWRENCE
DISTRICT 5	17,100	8,600	14,000	18,810	
LOGAN	UNION		MARION	MORROW	KNOX
COSHOCTON	LICKING		DELAWARE	CHAMPAIGN	CLARK
MADISON	FRANKLIN		PICKAWAY	FAIRFIELD	PERRY
HOCKING	ROSS				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
OKLAHOMA					
KEDDO	10,900	5,500	11,200	15,600	
PITTSBURG	HASKELL		LE FLORE	LATIMER	PUSHMATAHA
CHOCTAW	MC CURTAIN				
SODA	11,900	6,000	11,200	15,600	
GARVIN	PONTOTOC		COAL	CARTER	MURRAY
JOHNSTON	ATOKA		LOVE	MARSHALL	BRYAN
ACOG	18,000	9,000	12,000	19,800	
CLEVELAND					
OEDA	14,700	7,400	11,800	16,200	
CIMARRON	TEXAS		BEAVER	HARPER	ELLIS
WOODS	WOODWARD		DEWEY		
NODA	14,900	7,500	12,000	16,400	
ALFALFA	GRANT		KAY	MAJOR	GARFIELD
NOBLE	BLAINE		KINGFISHER		
AGOC	18,200	9,100	12,000	20,020	
CANADIAN	LOGAN		OKLAHOMA		
ASCOG	12,600	6,300	11,300	15,700	
CADDO	GRADY		MC CLAIN	COMANCHE	STEPHENS
TILLMAN	COTTON		JEFFERSON		
EODD	11,600	5,800	11,200	15,600	
OKMULGEE	MC INTOSH		WAGONER	MUSKOGEE	CHEROKEE
ADAIR	SEQUOYAH				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
OKLAHOMA	CONTINUED				
COEDD	13,100	6,600	11,200	15,600	
PAWNEE OKFUSKEE	PAYNE HUGHES		LINCOLN	POTTAWATOMIE	SEMINOLE
SWODA	12,700	6,400	11,200	15,600	
ROGER MILLS GREER	CUSTER KIOWA		BECKHAM JACKSON	WASHITA	HARMON
INCOG	18,000	9,000	12,000	19,800	
CREEK	TULSA		OSAGE		
NECO	11,000	5,500	11,200	15,600	
WASHINGTON MAYES	NEWATTA DELAWARE		CRAIG	OTTAWA	ROGERS

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
OREGON					
DISTRICT 1	16,400	8,200	15,600	20,000	
CLATSOP	TILLAMOOK				
DISTRICT 2	19,100	9,600	15,600	21,010	
CLACKAMAS	COLUMBIA		MULTNOMAH	WASHINGTON	
DISTRICT 3	16,400	8,200	15,100	19,500	
MARION	POLK		YAMHILL		
DISTRICT 4	16,300	8,200	16,000	20,400	
BENTON	LINCOLN		LINN		
DISTRICT 5	17,100	8,600	15,400	19,600	
LANE					
DISTRICT 6	15,600	7,800	14,200	18,600	
DOUGLAS					
DISTRICT 7	16,000	8,000	15,100	19,500	
COOS	CURRY				
DISTRICT 8	14,600	7,300	13,700	18,100	
JACKSON	JOSEPHINE				
DISTRICT 9	16,000	8,000	14,500	18,900	
HOOD RIVER	SHERMAN		WASCO		
DISTRICT 10	16,200	8,100	13,500	17,900	
CROOK	DESCHUTES		JEFFERSON		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
OREGON	CONTINUED				
DISTRICT 11	15,600	7,800	12,900	17,300	
KLAMATH	LAKE				
DISTRICT 12	15,400	7,700	14,600	19,000	
GILLIAM	GRANT		MORROW	UMATILLA	WHEELER
DISTRICT 13	15,200	7,600	14,900	19,300	
BAKER	UNION		WALLOWA		
DISTRICT 14	15,600	7,800	13,700	18,100	
HARNEY	MALHEUR				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
PENNSYLVANIA					
NORTHWESTERN	16,000	8,000	13,100	17,600	
CLARION	CRAWFORD		ERIE	FOREST	LAWRENCE
MERCER	VENANGO		WARREN		
SOUTHWESTERN	17,000	8,500	13,600	18,700	
ALLEGHENY	ARMSTRONG		BEAVER	BUTLER	FAYETTE
GREENE	INDIANA		WASHINGTON	WESTMORELAND	
NORTH CENTRAL	14,300	7,200	13,100	17,500	
CAMERON	CLEARFIELD		ELK	JEFFERSON	MC KEAN
POTTER					
SO. ALLEGHENIES	15,800	7,900	16,300	20,700	
BEDFORD	BLAIR		CAMBRIA	FULTON	HUNTINGDON
SOMERSET					
SED-COG	15,200	7,600	13,100	17,500	
CENTRE	CLINTON		COLUMBIA	JUNIATA	LYCOMING
MIFFLIN	NORTHUMBERLAND		MONTOUR	SNYDER	UNION
NORTHERN TIER	15,200	7,600	13,100	17,500	
BRADFORD	SULLIVAN		SUSQUEHANNA	TIOGA	WYOMING
NORTHEASTERN	15,200	7,600	13,100	17,500	
CARBON	LACKAWANNA		LUZERNE	MONROE	PIKE
SCHUYLKILL	WAYNE				
DEL VALLEY	20,200	10,100	14,600	22,220	
BUCKS	CHESTER		DELAWARE	MONGOMERY	PHILADELPHIA
BERKS	LEHIGH		NORTHAMPTON		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
PENNSYLVANIA CONTINUED				
CAPITAL REG	18,900	9,500	13,600	20,790
ADAMS	CUMBERLAND	DAUPHIN	LANCASTER	LEBANON
PERRY	YORK	FRANKLIN		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
RHODE ISLAND				
ENTIRE STATE	17,700	8,900	14,900	19,470
BRISTOL	KENT		NEWPORT	PROVIDENCE	WASHINGTON

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
SOUTH CAROLINA					
APPALACHIAN	16,900	8,400	13,500	18,590	
ANDERSON SPARTANBURG	CHEROKEE		GREENVILLE	OCONEE	PICKENS
BER-CHA-DOR	15,300	7,700	12,200	16,830	
BERKELEY	CHARLESTON		DORCHESTER		
LOW COUNTRY	12,200	6,100	10,900	15,600	
BEAUFORT	COLLETON		HAMTON	JASPER	
LOWER SAVANNAH	13,100	6,600	10,900	15,600	
AIKEN ORANGEBURG	ALLENDALE		BAMBERG	BARNWELL	CALHOUN
WACCAMAW	12,500	6,300	10,900	15,600	
GEORGETOWN	HORRY		WILLIAMSBURG		
PEE DEE	13,000	6,500	10,900	15,600	
CHESTERFIELD MARLBORO	DARLINGTON		DILLON	FLORENCE	MARION
SANTEE WATEREE	12,000	6,000	10,900	15,600	
CLARENDON	KERSHAW		LEE	SUMTER	
CENTRAL MIDLAND	15,000	7,500	12,000	16,500	
FAIRFIELD	LEXINGTON		RICHLAND	NEWBERRY	
CATAWBA	15,200	7,600	12,200	16,720	
CHESTER	LANCASTER		UNION	YORK	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
SOUTH CAROLINA CONTINUED					
UPPER SAVANNAH	11,300	5,700	10,900	15,600	
ABBEVILLE SALUDA	EDGEFIELD		GREENWOOD	LAURENS	MC CORMICK

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50% MEDIAN	LOW INCOME	MODERATE INCOME	
SOUTH DAKOTA					
DISTRICT 1	13,600	6,800	15,600	20,000	
GRANT	CLARK		CODINGTON	DEUEL	HAMLIN
KINGSBURY	BROOKINGS		MINER	LAKE	MOODY
DISTRICT 2	14,800	7,400	13,700	18,100	
MC COOK	MINNEHAHA		TURNER	LINCOLN	CLAY
UNION					
DISTRICT 3	13,000	6,500	13,400	17,800	
JERAULD	SANBORN		BRULE	AURORA	DAVISON
HANSON	GREGORY		CHARLES MIX	DOUGLAS	HUTCHINSON
BON HOMME	YANKTON				
DISTRICT 4	13,400	6,700	15,900	20,300	
HAND	FAULK		EDMUNDS	MC PHERSON	BROWN
SPINK	BEADLE		MARSHALL	DAY	ROBERTS
DISTRICT 5	13,900	7,000	13,900	18,300	
PERKINS	CORSON		CAMPBELL	ZIEBACH	DEWEY
WALWORTH	HAAKON		STANLEY	POTTER	SULLY
HYDE	HUGHES		JONES	LYMAN	BUFFALO
MELLETTE	TODD		TRIPP		
DISTRICT 6	14,700	7,400	13,400	17,800	
HARDING	BUTTE		MEADE	LAWRENCE	PENNINGTON
JACKSON	CUSTER		SHANNON	WASHABAUGH	FALL RIVER
BENNETT					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50% MEDIAN	LOW INCOME	MODERATE INCOME	
TENNESSEE					
FIRST TENNESSEE	13,200	6,600	10,600	15,600	
CARTER	GREENE		HANCOCK	HAWKINS	JOHNSON
SULLIVAN	WASHINGTON		UNICOI		
EAST	13,700	6,900	11,000	15,600	
ANDERSON	CAMPBELL		CLAIBORNE	COCKE	HAMBLEN
GRAINGER	UNION		JEFFERSON	BLOUNT	KNOX
SEVIER	LOUDON		MONROE	MORGAN	ROANE
SCOTT					
SOUTHEAST	13,300	6,700	10,700	15,600	
BRADLEY	POLK		GRUNDY	MCMINN	MEIGS
MARION	RHEA		HAMILTON	SEQUATCHIE	BLEDSOE
UPPER CUMBERLAN	11,000	5,500	10,600	15,600	
CANNON	CUMBERLAND		DEKALB	VAN BUREN	WARREN
WHITE	CLAY		FENTRESS	JACKSON	MACON
OVERTON	PICKETT		PUTNAM	SMITH	
MID-CUMBERLAND	17,100	8,600	13,700	18,810	
CHEATHAM	MONTGOMERY		ROBERTSON	DAVIDSON	STEWART
HOUSTON	SUMNER		DICKSON	HUMPHREYS	RUTHERFORD
TROUSDALE	WILLIAMSON		WILSON		
SOUTH CENTRAL	12,200	6,100	10,600	15,600	
BEDFORD	COFFEE		FRANKLIN	MOORE	LINCOLN
MARSHALL	GILES		HICKMAN	LEWIS	LAWRENCE
MAURY	WAYNE		PERRY		
NORTHWEST	12,700	6,400	10,600	15,600	
BENTON	CARROLL		CROCKETT	DYER	GIBSON
HENRY	OBION		LAKE	WEAKLEY	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
TENNESSEE	CONTINUED				
SOUTHWEST	11,400	5,700	10,600	15,600	
CHESTER	DECATUR		HARDEMAN	HARDIN	HAYWOOD
HENDERSON	MCNAIRY		MADISON		
MEMPHIS-DELTA	14,100	7,100	11,300	15,700	
FAYETTE	LAUDERDALE		SHELBY	TIPTON	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
TEXAS					
PANHANDLE	15,900	8,000	12,700	17,490	
DALLAM	SHERMAN		HANSFORD	OCHILTREE	LIPSCOMB
HARTLEY	MOORE		HUTCHISON	ROBERTS	HEMPHILL
OLDHAM	POTTER		CARSON	GRAY	WHEELER
DEAF SMITH	RANDALL		ARMSTRONG	DONLEY	COLLINGSWORTH
PARMER	CASTRO		SWISHER	BRISCOE	HALL
SOUTH PLAINS	13,900	7,000	12,500	16,900	
BAILEY	LAMB		HALE	FLOYD	MOTLEY
COCHRAN	HOCKLEY		LUBBOCK	CROSBY	DICKENS
KING	YOAKUM		TERRY	LYNN	GARZA
NORTEX	13,700	6,900	11,400	15,800	
CHILDRESS	HARDEMAN		COTTLE	FOARD	WILBARGER
BAYLOR	WICHITA		ARCHER	YOUNG	CLAY
JACK	MONTAGUE				
NORTH CENTRAL	17,700	8,900	13,400	19,470	
WISE	DENTON		COLLIN	HUNT	PALOPINTO
PARKER	TARRANT		DALLAS	ROCKWALL	ERATA
HOOD	JOHNSON		ELLIS	SOMERVELL	NAVARRO
KAUFMAN					
TEXOMA	14,400	7,200	11,600	16,000	
COOKE	GRAYSON		FANNIN		
ARK-TEX	13,000	6,500	10,800	15,600	
LAMAR	RED RIVER		BOWIE	DELTA	HOPKINS
FRANKLIN	TITUS		MORRIS	CASS	
WEST TEXAS	13,700	6,900	13,900	18,300	
ELPASO	HUDSPETH		CULBERSON	JEFF DAVIS	PRESIDIO
BREWSTER					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%	MEDIAN LOW INCOME	MODERATE INCOME	
TEXAS	CONTINUED				
PERMIAN	16,700	8,400	13,400	18,370	
GAINES	DAWSON		BORDEN	ANDREWS	MARTIN
HOWARD	LOVING		WINKLER	ECTOR	MIDLAND
GLASSCOCK	REEVES		WARD	CRANE	UPTON
PECOS	TERRELL				
WEST CENTRAL	12,900	6,500	11,500	15,900	
KNOX	KENT		STONEWALL	HASKELL	THROCKMORTON
SCURRY	FISHER		JONES	SHACKELFORD	STEPHENS
MITCHELL	NOLAN		TAYLOR	CALLAHAN	EASTLAND
RUNNELS	COLEMAN		BROWN	COMANCHE	
CONCHO VALLEY	11,700	5,900	10,800	15,600	
STERLING	COKE		REAGAN	IRION	TOM GREEN
CONCHO	CROCKETT		SCHLEICHER	MENARD	MC CULLOCH
MASON	SUTTON		KIMBLE		
MID RIO GRANDE	9,800	4,900	10,800	15,600	
VALVERDE	EDWARDS		REAL	KINNEY	UVALDE
MAVERICK	ZAVALA		DIMMIT	LASALLE	
CENTRAL TEXAS	12,300	6,200	10,800	15,600	
MILLS	HAMILTON		SAN SABA	LAMPASAS	CORYELL
BELL	MILAM				
HEART OF TEXAS	12,200	6,100	10,800	15,600	
BOSQUE	HILL		MC LENNAN	LIMESTONE	FREESTONE
FALLS					
EAST TEXAS	13,200	6,600	11,100	15,600	
RAINS	WOOD		CAMP	UPSHUR	MARION
VANZANDT	SMITH		GREGG	HARRISON	HENDERSON
RUSK	PANOLA		ANDERSON	CHEROKEE	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%	MEDIAN LOW INCOME	MODERATE INCOME	
TEXAS	CONTINUED				
ALAMO	14,200	7,100	11,400	15,800	
GILLESPIE	KERR		KENDALL	BANDERA	COMAL
BEXAR	MEDINA		GUADALUPE	FRIO	ATASCOSA
KARNES					
CAPITAL AREA	13,400	6,700	10,800	15,600	
LLANO	BURNET		WILLIAMSON	BLANCO	TRAVIS
LEE	BASTROP		HAYES	CALDWELL	FAYETTE
BRAZOS	11,200	5,600	10,800	15,600	
LEON	ROBERTSON		BRAZOS	MADISON	BURLESON
GRIMES	WASHINGTON				
DEEP EAST TEXAS	11,400	5,700	10,800	15,600	
SHELBY	NACOGDOCHES		HOUSTON	TRINITY	POLK
SAN JACINTO	TYLER		JASPER	NEWTON	SAN AUGUSTINE
SABINE	ANGELINA				
SOUTHEAST TEX	17,600	8,800	13,400	19,360	
HARDIN	ORANGE		JEFFERSON		
LOWER RIO GRAND	9,900	5,000	10,800	15,600	
HIDALGO	WILLACY		CAMERON		
SOUTH TEXAS	7,600	3,800	10,800	15,600	
WEBB	ZAPATA		JIM HOGG	STARR	
COASTAL BEND	13,700	6,900	11,000	15,600	
MC MULLEN	LIVE OAK		BEE	REFUGIO	DUVAL
JIM WELLS	NUECES		SAN PATRICIO	ARANSAS	KLEBERG
BROOKS	KENEDY				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
TEXAS	CONTINUED				
GOLDEN CRESCENT	12,800	6,400	10,800	15,600	
GONZALES	LAVACA		DEWITT	JACKSON	VICTORIA
GOLIAD	CALHOUN				
HOUSTON GALVEST	20,000	10,000	13,400	22,000	
WALKER	MONTGOMERY		AUSTIN	WALLER	HARRIS
LIBERTY	COLORADO		FT BEND	CHAMBERS	MATAGORDA
BRAZORIA	GALVESTON		WHARTON		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
UTAH					
DISTRICT I	16,400	8,200	13,100	18,040	
BOX ELDER	CACHE		RICH		
DISTRICT II	18,400	9,200	13,100	20,240	
TOOELE	WEBER		DAVIS	MORGAN	SALT LAKE
DISTRICT III	16,100	8,100	12,900	17,710	
UTAH	WASATCH		SUMMIT		
DISTRICT IV	13,300	6,700	12,200	16,600	
JUAB	MILLARD		SANPETE	SEVIER	PIUTE
WAYNE					
DISTRICT V	12,900	6,500	12,200	16,600	
BEAVER	IRON		WASHINGTON	GARFIELD	KANE
DISTRICT VI	15,400	7,700	12,300	16,940	
DUCHESNE	UINTAH		DAGGETT		
DISTRICT VII	14,600	7,300	12,200	16,600	
CARBON	EMERY		GRAND	SAN JUAN	

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MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW SOIMEDIAN	LOW INCOME	MODERATE INCOME	
VERMONT					
DISTRICT I	15,600	7,800	13,600	18,000	
CALEDONIA	ESSEX		ORLEANS	CHITTENDEN	FRANKLIN
GRAND ISLE	LAMOILLE		WASHINGTON	ORANGE	
DISTRICT II	15,700	7,900	13,900	18,300	
ADDISON	BENNINGTON		RUTLAND	WINDHAM	WINDSOR

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW SOIMEDIAN	LOW INCOME	MODERATE INCOME	
VIRGINIA					
DISTRICT 1	12,000	6,000	12,400	16,800	
LEE	WISE		SCOTT		
DISTRICT 2	13,200	6,600	12,400	16,800	
DICKENSON	RUSSELL		BUCHANAN	TAZEWELL	
DISTRICT 3	13,400	6,700	12,400	16,800	
WASHINGTON	SMYTH		BLAND	WYTHE	GRAYSON
CARROLL					
DISTRICT 4	16,600	8,300	13,300	18,260	
GILES	PULASKI		MONTGOMERY	FLOYD	
DISTRICT 5	17,500	8,800	14,000	19,250	
CRAIG	ALLEGHANY		BOTETOURT	ROANOKE	
DISTRICT 6	16,200	8,100	12,900	17,820	
BATH	ROCKBRIDGE		HIGHLAND	AUGUSTA	ROCKINGHAM
DISTRICT 7	15,300	7,700	12,400	16,830	
SHENANDOAH	PAGE		WARREN	FREDERICK	CLARKE
DISTRICT 8	26,000	13,000	14,000	28,600	
LOUDOUN	PRINCE WILLIAM		FAIRFAX	ARLINGTON	
DISTRICT 9	14,200	7,100	12,400	16,800	
MADISON	ORANGE		CULPEPPER	RAPPAHANNOCK	FAUQUIER
DISTRICT 10	15,700	7,900	12,600	17,270	
NELSON	ALBEMARLE		FLUVANNA	LOUISA	GREENE

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
VIRGINIA	CONTINUED				
DISTRICT 11	16,900	8,500	13,500	18,590	
BEDFORD	AMHERST		CAMPBELL	APPOMATTOX	
DISTRICT 12	14,700	7,400	12,400	16,800	
PATRICK	FRANKLIN		HENRY	PITTSYLVANIA	
DISTRICT 13	12,400	6,200	12,400	16,800	
HALIFAX	MECKLENBURG		BRUNSWICK		
DISTRICT 14	12,400	6,200	13,100	17,500	
BUCKINGHAM CHARLOTTE	CUMBERLAND LUNENBURG		AMELIA	PRINCE EDWARD	NOTTOWAY
DISTRICT 15	20,100	10,100	14,000	22,110	
HANOVER CHARLES CITY	GOOCHLAND POWHATAN		HENRICO	CHESTERFIELD	NEW KENT
DISTRICT 16	16,200	8,100	13,100	17,820	
STAFFORD	SPOTSYLVANIA		KING GEORGE	CAROLINE	
DISTRICT 17	12,000	6,000	12,400	16,800	
WESTMORELAND	NORTHUMBERLAND		RICHMOND	LANCASTER	
DISTRICT 18	14,900	7,500	12,400	16,800	
ESSEX GLOUCESTER	KING&QUEEN		KING WILLIAM	MIDDLESEX	MATHEWS
DISTRICT 19	15,900	8,000	12,700	17,490	
DINWIDDIE	PRINCE GEORGE		SURRY	SUSSEX	GREENSVILLE

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
VIRGINIA	CONTINUED				
DISTRICT 20	16,100	8,100	13,100	17,710	
SOUTHAMPTON	ISLE OF WIGHT		CITY OF SUFFOLK CITY		VA BEACH
DISTRICT 21	17,400	8,700	14,000	19,140	
JAMES CITY	YORK				
DISTRICT 22	10,800	5,400	12,400	16,800	
NORTHAMPTON	ACCOMACK				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WASHINGTON					
DISTRICT I	20,200	10,100	13,900	22,220	
KING	KITSAP		PIERCE	SNOHOMISH	
DISTRICT II	17,000	8,500	13,900	18,700	
CLALLAM SAN JUAN	ISLAND		JEFFERSON	SKAGIT	WHATCOM
DISTRICT III	17,600	8,800	13,900	19,360	
CLARK MASON	COWLITZ PACIFIC		GRAYS HARBOR SKAMANIA	KLICKITAT THURSTON	LEWIS WAHKIAKUM
DISTRICT IV	15,300	7,700	13,900	18,300	
CHELAN	DOUGLAS		KITTITAS	OKANOGAN	YAKIMA
DISTRICT V	16,500	8,300	13,900	18,300	
ADAMS FRANKLIN SPOKANE	ASOTIN GARFIELD STEVENS		BENTON GRANT WALLA WALLA	COLUMBIA LINCOLN WHITMAN	FERRY PEND OREILLE

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WEST VIRGINIA					
REGION I	13,900	7,000	11,500	15,900	
MC DOWELL WYOMING	MERCER		MONROE	RALEIGH	SUMMERS
REGION II	14,000	7,000	11,500	15,900	
CABELL	LINCOLN		LOGAN	MINGO	WAYNE
REGION III	16,200	8,100	13,000	17,820	
BOONE	CLAY		KANAWHA	PUTNAM	
REGION IV	12,700	6,400	11,500	15,900	
FAYETTE	GREENBRIER		NICHOLAS	POCAHANTAS	WEBSTER
REGION V	14,800	7,400	11,800	16,280	
CALHOUN TYLER	JACKSON WIRT		PLEASANTS WOOD	RICHIE	ROANE
REGION VI	14,700	7,400	11,800	16,200	
DODDRIDGE PRESTON	HARRISON		MARION	MONONGALIA	TAYLOR
REGION VII	11,300	5,700	11,500	15,900	
BARBOUR TUCKER	BRAXTON UPSHUR		GILMER	LEWIS	RANDOLPH
REGION VIII	12,600	6,300	11,500	15,900	
GRANT	HAMPSHIRE		HARDY	MINERAL	PENDLETON
REGION IX	15,600	7,800	12,500	17,160	
BERKELEY	JEFFERSON		MORGAN		

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WEST VIRGINIA	CONTINUED				
REGION X	16,300	8,200	13,000	17,930	
MARSHALL	OHIO		WETZEL		
REGION XI	16,600	8,300	13,300	18,260	
BROOKE	HANCOCK				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WISCONSIN					
SOUTHWEST	17,300	8,700	14,400	19,030	
GRANT	IOWA		LAFAYETTE	GREEN	RICHLAND
SAUK	COLUMBIA		DODGE	JEFFERSON	
DANE	21,400	10,700	14,200	23,540	
DANE					
ROCK VALLEY	19,200	9,600	14,100	21,120	
ROCK					
SOUTHEASTERN	20,400	10,200	13,900	22,440	
KENOSHA	RACINE		WALWORTH	WAUKESHA	MILWAUKEE
OZAUKEE	WASHINGTON				
BAY LAKE	17,300	8,700	13,900	19,030	
SHEBOYGAN	MANITOWOC		BROWN	KEWAUNEE	DOOR
OCONTO	MARINETTE		FLORENCE		
EAST CENTRAL	17,000	8,500	13,900	18,700	
FOND DU LAC	GREEN LAKE		MARQUETTE	WAUSHARA	WINNEBAGO
CALUMET	OUTAGAMIE		WAUPACA	SHAWANO	MENOMINEE
NORTH CENTRAL	15,700	7,900	13,900	18,300	
VILAS	FOREST		ONEIDA	LINCOLN	LANGLADE
MARATHON	WOOD		PORTAGE	JUNEAU	ADAMS
NORTHWESTERN	13,100	6,600	14,000	18,400	
DOUGLAS	BAYFIELD		ASHLAND	IRON	BURNETT
WASHBURN	SAWYER		PRICE	RUSK	TAYLOR

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WISCONSIN	CONTINUED				
WEST CENTRAL	16,600	8,300	13,900	18,300	
POLK	BARRON		ST CROIX	DUNN	CHIPPEW
EAU CLAIRE	CLARK				
MISSISSIPPI	15,300	7,700	14,400	18,800	
PIERCE	PEPIN		BUFFALO	TREMPEALEAU	JACKSON
MONROE	LA CROSSE		VERNON	CRAWFORD	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
WYOMING					
DISTRICT 1	16,000	8,000	13,500	17,900	
PARK	BIGHORN		SHERIDAN	JOHNSON	WASHAKIE
HOT SPRINGS	FREMONT				
DISTRICT 2	17,600	8,800	13,600	19,360	
CAMPBELL	CROOK		WESTON	CONVERSE	NIOBRARA
ALBANY	NATRONA		PLATTE	GOSHEN	LARAMIE
DISTRICT 3	17,000	8,500	13,600	18,700	
TETON	SUBLETTE		LINCOLN	SWEETWATER	UINTA
CARBON					

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
ALASKA				
SOLDOTNA	22,300	11,200	18,700	24,530
PALMER	21,800	10,900	18,900	23,980
FAIRBANKS	20,300	10,200	17,700	22,330
JUNEAU	25,900	13,000	19,700	28,490

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
HAWAII				
HONOLULU	22,300	11,200	14,000	24,530
KAUAI	19,600	9,800	14,000	21,560
MAUI	19,100	9,600	14,000	21,010
HAWAII	19,200	9,600	14,000	21,120

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
GUAM				
ENTIRE	12,300	6,200	13,600	18,000

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME	
PUERTO RICO					
AGUADILLA	3,600	1,800	6,900	15,600	
AGUADA SAN SEBASTIAN	AGUADILLA		ISABELA	MOCA	RINCON
ARECIBO	3,800	1,900	7,200	15,600	
ARECIBO HATILLO	BARCELONETA LARES		CAMUY MANATI	FLORIDA QUEBRADILLAS	CIALES UTUADO
BAYAMON	4,400	2,200	6,600	15,600	
BOYAMON DORADO VEGA BAJA	BARRANQUITAS NARANJITO		CATANO TOA BAJA	COMERIO TOA ALTA	COROZAL VEGA ALTA
CAGUAS	5,300	2,700	7,300	15,600	
AIBONITO JUNCOS	AGUAS BUENAS SAN LORENZO		CAYEY CAGUAS	CIDRA	GURABO
GUAYAMA	4,800	2,400	6,400	15,600	
GUAYAMA	ARROYO		MAUNABO	PATILLAS	SALINAS
HUMACAO	4,600	2,300	6,800	15,600	
HUMACAO	CEIBA		LAR PIEDRAS	NAGUABO	YABUCOA
MAYAGUEZ	4,500	2,300	6,900	15,600	
MAYAGUEZ LAR MARIAS	ANASCO MARICAO		CABO SABANA GRANDE	HORMIGUEROS SAN GERMAN	LAJAS
PONCE	3,700	1,900	6,900	15,600	
PONCE JUANA DIAZ YAUCO	ADJUNTAS OROCOVIS GUAYANILLA		COAMO PENUELAS	GUANICA SANTA ISABEL	JAYUYA VILLALBA

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN SDZMEDIAN	VERY LOW INCOME	MODERATE INCOME
PUERTO RICO CONTINUED			
SAN JUAN	6,200 3,100	6,900	15,600
SAN JUAN	CAROLINA	CANOVANAS	CULEBRAS	FAJARDO
GUAYNABO	LOIZA	LUQUILLO	RIO GRANDE	TRUJILLO ALTO
VIEQUES				

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN SDZMEDIAN	VERY LOW INCOME	MODERATE INCOME
VIRGIN ISLANDS			
ENTIRE AREA	14,500 7,300	12,400	16,800
ST CROIX	ST THOMAS	ST JOHN	

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
NO. MARRIANAR				
ENTIRE AREA	3,400	1,700	2,700	15,600

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
TRUST TERRITORY				
ENTIRE	2,500	1,300	2,000	15,600
PALAU	PONAPE		TRUK	YAP

MAXIMUM ADJUSTED INCOME FOR LOW-AND MODERATE-INCOME HOUSEHOLDS

STATE DISTRICT/COUNTY	MEDIAN	VERY LOW 50%MEDIAN	LOW INCOME	MODERATE INCOME
AM. SAMOA				
ENTIRE	4,000	2,000	3,200	15,600

BILLING CODE 3410-07-C

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement". It is the determination of FmHA that the proposed does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

This proposed Exhibit C to Subpart A of Part 1822 does not affect the manner in which housing projects are processed under the requirements of OMB Circular A–95. FmHA Instruction 1901–H delineates those housing projects which are subject to these requirements and those projects which are exempt.

Authorities: 42 U.S.C. 1480; 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: September 12, 1980.

Alex P. Mercure,

Assistant Secretary for Rural Development.

[FR Doc. 80–28993 Filed 9–18–80; 8:45 am]

BILLING CODE 3410–07–M

Food Safety and Quality Service

9 CFR Part 313

Humane Handling and Treatment of Livestock; Notice of Solicitation of Information

Republication

Note.—FR Doc. 80–28060 was published at page 60448 in the issue of Friday, September 12, 1980. In the preamble some of the information was inadvertently misplaced. For the convenience of the reader, this document is being republished in its entirety.

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of solicitation of information.

SUMMARY: The Food Safety and Quality Service is seeking information from all interested members of the public on the need for modification of certain provisions relating to the humane handling of livestock contained in the Federal meat inspection regulations. The Agency has been requested to allow the withholding of water from cattle for a period of time not in excess of 24 hours when such withholding is specified in the sales contract. The Agency has also been requested to allow the withholding of water from animals which are to be slaughtered within 24 hours from the time they arrive at the slaughter establishment. Prior to deciding what, if anything, to propose with respect to these matters, the Agency will consider all comments in response to this notice.

DATE: Comments and information must be received on or before November 12, 1980.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Gerald Snyder, Acting Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3219.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments and information concerning this request. Written comments must be sent in duplicate to the Regulations Coordination Division. Comments should bear reference to the date and page number of this issue of the **Federal Register.** All comments submitted pursuant to this notice will be made available for public inspection in the office of the Regulations Coordination Division during regular hours of business.

Background

On November 30, 1979, the Food Safety and Quality Service published final regulations (44 FR 68809–68817) amending the Federal meat inspection regulations to adopt humane slaughtering and handling practices with respect to livestock in accordance with the Humane Methods of Slaughter Act of 1978 (Pub. L. 95–445). During the development of those regulations, the Department considered comments suggesting that animals have feed and water available as soon as they arrive at the holding pens of the slaughter establishment. As finalized, the regulations require that water be made available in all holding pens and that feed also be provided in all holding pens if the animal is to be retained longer than 24 hours before slaughter. No comments were received suggesting that there be an option of withholding water from cattle for a period of time prior to slaughter.

Since the regulations were finalized, the Food Safety and Quality Service has received a petition from Iowa Beef Processors, Inc., requesting that cattle be allowed to be held at the slaughter establishment without water for up to 24 hours before slaughter when this is specified in a sales contract. The petition states that this is a common and traditional method used in the sale and purchase of cattle for slaughter. Under such a contract, the cattle are consigned to and in the custody of the slaughterer, but do not become his property until after the contracted period without feed and water and subsequent weighing. After the weighing, the cattle are slaughtered or returned to pens and watered.

This type of contract selling is most often done by producers who sell cattle on the hot carcass weight. It is claimed that this contract gives the producer a reliable check on the slaughterer's yields and prices. It is intended to give the producer reliable information to monitor and improve his feeding practices and to increase his confidence that he is being treated fairly by the slaughterer.

The more common method of purchasing cattle involves weighing the animals at the time of sale and deducting a shrink allowance to arrive at the weight used to compute the purchase price. A producer may believe that the shrink allowance overstates the amount of weight his particular animals will lose and may prefer to sell them on actual weight after a shrink period.

Furthermore, the American Association of Meat Processors has requested that the present requirement for water in pens be changed to allow animals which are to be slaughtered within 24 hours to be withheld from water. It cites the difficulty of keeping pipes thawed in the winter and the maintenance of the drinking troughs and pipes. It claims that animals will not drink in strange surroundings unless they are extremely thirsty and, therefore, are not being mistreated if water is not immediately available.

There is a precedent for withholding feed and water from livestock for periods of up to 28 hours under The 28 Hour Law, 34 Stat. 607. This law was passed in 1906 and applies primarily to livestock transported by railroad. Under the terms of the law, it is prohibited to confine animals in cars, boats, or vessels for a period longer than 28 consecutive hours without unloading the same in a humane manner (see 45 U.S.C. 71). Furthermore, this requirement can be extended under certain conditions.

Before deciding whether to propose an amendment to permit the petitioned practices, the Administrator is requesting that interested parties present their views on these matters. These comments will assist the Department in determining whether the regulations promulgated under the

Humane Methods of Slaughter Act should be modified.

Done at Washington, D.C., on: September 5, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-28060 Filed 9-11-80; 4:45 am]

BILLING CODE 1504-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-76-01D]

East Coast Residual Fuel Oil Entitlements; Extension

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing to adopt amendments to be effective October 1, 1980 which would extend through September 30, 1981 the effects of the current provisions of the domestic crude oil allocation program ("entitlement program"). The current regulations provide that imports of residual fuel oil into the East Coast market or the State of Michigan receive 50 percent of the per barrel entitlements runs credit and that an entitlements penalty shall apply to domestically refined residual fuel oil which is transported by foreign flag tankers for sale or use in those markets. The current entitlements provisions relating to residual fuel oil are scheduled to expire on September 30, 1980.

DATES: Proposed effective date: October 1, 1980; Comments by November 18, 1980; 4:30 p.m. Request to speak at a hearing by October 14, 1980, m4:30 p.m.; Hearing dates: Boston hearing, October 22, 1980, 9:30 a.m.; Washington hearing, October 27, 1980, 9:30 a.m.

ADDRESSES: All comments and requests to speak at the Washington, D.C. hearing to: Department of Energy, Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA-R-76-01D, Room B210, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak at the Boston hearing: Robert Ruttenberg, Department of Energy, Region I, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, (617) 223-5257. Hearing locations: Boston hearing, Room 2003, JFK Federal Building, Boston, Massachusetts; Washington hearing, Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Karene Walker (Office of Public Hearings Management), Economic Regulatory Administration, Room B-210, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3971.

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

Josette L. Maxwell (Office of Regulatory Policy), David Welsh (Entitlements Program Office), Economic Regulatory Administration, Room 7202-D (Maxwell); Room 6212 (Welsh), 2000 M Street NW., Washington, D.C. 20461, (202) 653-3256 (Maxwell); 653-3873 (Welsh).

Samuel Bradley or Jack Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6754 (Bradley); 252-6739 (Kendall).

SUPPLEMENTARY INFORMATION:

I. Background and Proposal.
II. Comment Procedures.
III. Other Matters.

I. Background and Proposal

Since July 1, 1978, section 211.67 of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) has provided that imports of residual fuel oil into the East Coast market or the State of Michigan receive 50 percent of the per barrel entitlement runs credit and that an entitlements penalty shall apply to domestically refined residual fuel which is transported by foreign flag tankers for sale or use in those markets.[1] These provisions of the entitlements program relating to residual fuel oil imported or sold into the East Coast market and the State of Michigan will expire on September 30, 1980.

We are today proposing to continue the current residual fuel oil entitlements provisions through September 1981. This decision is based on our tentative conclusion that, in view of the length of time that these provisions have been in effect, such action would be appropriate to insure an orderly adjustment to a decontrolled market in the East Coast and in the State of Michigan. Since the value of an entitlement generally will decline with each successive month between now and October 1981 as the phased deregulation of crude oil prices progresses, extension of the residual fuel oil entitlements provisions would permit the gradual removal of the benefits of the residual fuel oil entitlements provisions.

We are currently performing a regulatory analysis to determine whether extension of the residual fuel oil entitlements provisions beyond September 30, 1980 would be consistent with the objectives of the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. 751 *et seq.* Pub. L. 93-159, as amended). In particular, we are considering the extent to which the abrupt termination of the effects of the residual fuel oil entitlements provisions might affect market factors in the East Coast and in the State of Michigan. We expect to complete and publish a summary of the findings of our regulatory analysis in the near future, and we will consider these findings and all public comments in evaluating today's proposal.

Today's proposal, if adopted, would change the time periods set forth in the definition of "eligible product" in 10 CFR 211.62 and in paragraphs (a)(3) and (d)(4) of 10 CFR 211.67.

II. Comments Procedures and Public Hearings

A. Written Comments

Your are invited to participate in this rulemaking proceeding by submitting views, data, or arguments with respect to the proposals set forth in this notice. Comments should be submitted to the address set forth in the "ADDRESSES" section of this notice and should be identified on the outside envelope and on the documents submitted with the docket number and the designation "EAST COAST RESIDUAL FUEL OIL ENTITLEMENTS; EXTENSION." Fifteen copies should be submitted. All comments received by 4:30 p.m., November 18, 1980 and all other available relevant information will be considered before final action is taken on the proposed amendments. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room 5B-180, 1000 Independence Avenue, SE, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

[1] The current residual fuel oil entitlements provisions were adopted in October 1978 effective for the period July 1, 1978 through June 30, 1979 in response to a Congressional requirement in DOE's Appropriations Act for fiscal year 1979. *See* 43 FR 49682, October 24, 1978. They were subsequently extended in June 1979 (44 FR 34468, June 15, 1979) for six months and again in January 1980 (45 FR 6919, January 31, 1980) for nine months. Prior to the second extension, Congress again expressed the view that the East Coast residual fuel oil entitlement benefits should continue at the then-existing level by providing in the DOE's Appropriations Act for fiscal year 1980 that any other level would be subject to Congressional review under the procedures of section 551 of the Energy Policy and Conservation Act.

If you submit any information or data you believe to be confidential, it must be so identifed and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for Requesting Opportunity to Present Oral Statement.* The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this notice. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the first business day following the first business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at a hearing. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard at a hearing, we will notify you before 4:30 p.m. October 16 (Boston) or October 20 (Washington, D.C.), 1980. You will be required to bring your statement to the hearing location before 4:30 p.m. on the day before the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard at a hearing.

An ERA official will be designated to preside at each hearing. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, 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.

Questions to be asked of any person making a statement at a hearing 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. You may also submit any questions, in writing, to the presiding officer at a hearing. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

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 and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, 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. You may purchase copies of the transcripts from the reporter.

III. Other Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we have referred this rule to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the close of the public comment period to make this determination.

B. Section 7 of the EPA 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.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined previously (*see* 44 FR 34468, June 15, 1979) that the rule continuing the existing entitlements treatment for East Coast residual fuel oil imports does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Executive Order 12044

A regulatory analysis of the potential impacts of the amendments currently in effect was prepared and made publicly available on October 20, 1978. We reviewed our October 1978 findings and made revised findings publicly available in June 1979. (*See* 44 FR 34468, June 15, 1979.) In accordance with Executive Order 12044 (43 FR 12661, March 23, 1978), we are currently reviewing those findings in view of today's proposal, which would continue the effectiveness of the current provisions relating to residual fuel oil. The draft regulatory analysis prepared in conjunction with this proceeding will be available for examination in its entirety in the DOE Freedom of Information Office, Room 5B–180 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, (202) 252–6020. A summary of the findings set forth in the analysis will be published in the near future.

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

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below, effective October 1, 1980.

Issued in Washington, D.C., September 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. The definition of "eligible product" in § 211.62 is revised to read as follows:

§ 211.62 Definitions.

For purposes of this subpart—

* * * * *

"Eligible product" means residual fuel oil imported into the eligible market in the period July 1, 1979 through September 30, 1981, except that an import of residual fuel oil into the United States customs territory which has been processed in the U.S. Virgin Islands shall not be considered an eligible product; *And provided,* that, Canadian residual fuel oil imported into the State of Michigan will qualify as an eligible product.

* * * * *

2. Subparagraphs (a)(3) and (d)(4) of § 211.67 are revised to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.*

* * * * *

(3) For each month in the period July 1, 1979 through September 30, 1981, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equivalent to fifty percent (50%) of the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to a number of barrels of that eligible product imported by that eligible firm. An eligibile product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 and 7505, as appropriate, in which importation takes place.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(4) For the period July 1, 1979 through September 30, 1981, for purposes of the calculations in subparagraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of paragraph (e) of this section), the volume of crude oil runs to stills of any domestic refiner attributable to production of residual fuel oil transported in foreign flag tankers for sale (whether directly for consumption or for resale) or use in the eligible market (as defined in § 211.62) shall be reduced by fifty percent (50%). Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) above shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4).

* * * * *

[FR Doc. 28960 Filed 9-18-80; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

Securities of Insured Nonmember State Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The proposal would amend the Federal Deposit Insurance Corporation's ("FDIC") securities disclosure regulations issued under the Securities Exchange Act of 1934 (15 U.S.C. 78) ("Act") in order to bring them into substantial similarity with those of the Securities and Exchange Commission ("SEC"). Section 12(i) of the Act requires that the FDIC issue regulations substantially similar to those of the SEC or publish its reasons for not doing so. This proposal is intended to comply with Section 12(i), to update the regulation, and to make the regulation more understandable. It covers the following: (1) Safe harbor for projections; (2) foreign bank reporting; (3) corporate governance; (4) dividend reinvestment plans; (5) tender offers; (6) issuer tender offers; (7) going private transactions; and (8) reformating of Part 335.

DATES: Comments must be received on or before November 18, 1980.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Senior Attorney, or David J. Seermon, Financial Analyst, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 (202) 389-4422 or 389-4651.

SUPPLEMENTARY INFORMATION: The FDIC would make the following changes:

A. Proposed Amendments to Part 335

1. Safe Harbor For Projections. On June 25, 1979, the SEC amended its regulations to provide a new rule providing a "safe harbor" from applicable liability provisions of the Federal securities laws for statements made in filings with the SEC or annual reports to shareholders that contain or relate to projections. In general, the SEC rule deems certain statements not to be false or misleading under the Federal securities laws unless they were prepared without a reasonable basis or disclosed other than in good faith. SEC Rel. No. 34-15944, 44 FR 38810 (July 2, 1979).

In adopting this amendment, the SEC stated that it did so to further the SEC's goal of encouraging the disclosure of projections and forward-looking information both in SEC filings and in general. The FDIC finds no reason that this "safe harbor" should not be available to banks and therefore would adopt the SEC amendment in substantially the form adopted by the SEC. Accordingly, a new § 335.3-1 would be added as set out below.

2. Foreign Bank Reporting. The International Banking Act of 1978, Pub. L. No. 95-369, section 1, 92 Stat. 607 (1978), amended the term "insured bank" contained in Section 3(h) of the Federal Deposit Insurance Act, 12 U.S.C 1813(h), to include a foreign bank having an insured branch in the United States. Because of the operation of Section 12(i) of the Securities Exchange Act of 1934, such foreign banks have for the first time become subject to the provisions of Part 335. A new § 335.4(a)(4) would provide exemptions substantially the same as those contained in SEC rule 12g3-2, (CFR 240.12g3-2 (1979)). The title of Part 335 would be amended to bring it more into comformity with the FDIC's jurisdiction under the International Banking Act of 1980. Section 335.1 would be amended to bring the scope of the part's definition of an insured bank into comformity with the International Banking Act of 1978. Section 335.45 (Form F-4A) would provide a format for foreign banks substantially similar to Form 6-k, 17 CFR 249.306 (1979), of the SEC.

3. Corporate Governance. On November 20, 1979, the SEC amended its regulations to provide greater opportunities for shareholders to exercise their right of suffrage and to obtain information and advice about matters on which they vote. SEC Rel. No. 34-16346, 44 FR 68764 (November 29, 1979). The SEC amendments require that shareholders be provided with a form of proxy which (a) indicates whether the proxy is solicited on behalf of the issuer's board of directors, (b) permits shareholders to withhold authority to vote for each nominee for election as a director, and (c) provides a means by which shareholders are afforded an opportunity to abstain from matters referred to in the proxy card as to which they have an opportunity to vote, other than elections to office. The SEC also adopted a rule requiring that shareholders be provided, under certain

circumstances, with information concerning the votes cast for and withheld from incumbent directors. It also exempted from the informational and filing requirements of the proxy rules the furnishing of proxy voting advice by financial advisors under certain limited circumstances. These activities remain subject to the proxy rule prohibition against false and misleading statements. The SEC also adopted a rule which requires disclosure of the date by which shareholders' proposals must be received in order to be included in the issuer's proxy statement. The FDIC would amend its regulations to make them substantially similar to the SEC amendments. Accordingly, § 335.5(b)(5), § 335.5(d), § 335.5(e)(6), and § 335.51 (Form F–5) would be amended.

4. Dividend Reinvestment Plans. On May 14, 1980, the SEC adopted a new rule which attempts from the reporting and liability provisions of Section 16 of the Securities Exchange Act of 1934 the acquisition of equity securities by officers, directors, and 10 percent beneficial owners pursuant to dividend reinvestment plans. SEC Rel. No. 34–16806, 45 FR 33957 (May 21, 1980). The SEC stated that the new rule enables statutory insiders to participate in such dividend reinvestment plans on the same basis as other shareholders. The FDIC would amend its regulations to add a substantially similar exemption by adding a new § 335.6(j) and renumbering subsequent paragraphs of § 335.6.

5. Tender Offers. On November 29, 1979, the SEC announced the adoption of new rules and a related schedule pertaining to tender offers. SEC Rel. No. 34–16806, 44 FR 70326 (December 6, 1979). It stated that the rules implement existing statutory requirements but provide specific filing, delivery and disclosure requirements optional dissemination provisons and additional substantive regulatory protection with respect to certain tender offers. The SEC also adapted certain anti-fraud rules applicable to *any* offer. The SEC cited the increased occurrence of tender offers; their impact on securities markets and on corporate control; the dynamic nature of these transactions and the need to ensure a balance between the interest of persons making a tender offer and the management of the company whose securities are being sought, while providing disclosure and substantive protection to shareholders making investment decisions.

The rules regulating the person making the tender offer ("the bidder") may be divided into four categories: Filing requirements; dissemination provisions; disclosure requirements; and substantive provisions. The rules are triggered by the date of commencement of the tender offer. The bidder must hand deliver its initial filing and any amendments to the issuer and to any competing bidder. The rules allow long-form publication, summary publication, and the use of shareholder lists and security position lists ("Stockholder Lists") as methods of dissemination. As in the proxy rules, the issuer would be allowed to mail materials for the bidder or to provide a shareholder list to the bidder. Tender offers must remain open for a minimum of 20 business days and for 10 business days after an increase in the consideration offered. The withdrawal rights are increased to an initial period of 15 business days.

The issuer is regulated by three rules. If a bidder has determined to use the company's stockholder list, it must mail the materials or provide a copy of the list to the bidder. The issuer must disclose its position with respect to the tender offer and the reasons therefore within 10 days of commencement and file a schedule with the SEC.

Certain specified persons, generally those who are related to the issuer or the bidder, are also subject to the rule.

Part 335 would be amended to add § 335.8–1 through 335.8–11, and to amend § 335.47 (Form F–11), § 335.48 (Form F–11A), § 335.53 (Form F–12) and § 335.54 (Form F–13).

B. SEC Amendments Not Proposed

1. Issuer Tender Offers. On August 16, 1979, the SEC adopted a new rule and schedule (17 CFR 240.13e–4 and 240.13e–101) relating to tender and exchange offers by certain publicly held issuers (and affiliates) for their own securities ("issuer tender offers"). The rule defines certain fraudulent, deceptive and manipulative acts or practices in connection with such offers, and prescribes filing, disclosure, dissemination and other requirements as means reasonably designed to prevent such acts and practices. SEC Rel. No. 34–16112, 44 FR 49406 (August 22, 1979).

An issuer with a class of equity securities registered under Section 12 of the Act must file an Issuer Tender Offer Statement on Schedule 13E–4 with the SEC prior to, or as soon as practicable after, the date of commencement of the issuer tender offer to disclose, *inter alia:* (1) Information concerning the entity filing the schedule; (2) the source and amount of funds or other consideration to be used to effect the transaction; (3) the purpose of the tender offer and any plans or proposals of the issuer (or affiliate) that would materially change the business, financial structure or board of directors of the issuer; (4) recent transactions in the class of securities subject to the offer; (5) annual and interim financial information; and (6) copies of any tender offer materials which are published, sent or given to security holders and other exhibits.

The information required by Schedule 13E–4, or a fair and adequate summary thereof, must be disseminated to shareholders by certain prescribed means. Rule 13e–4 also includes requirements covering withdrawal rights, provisions for the pro rata acceptance of tendered securities, payment for tendered and accepted securities, and a "best price" provision as well as other matters.

The FDIC is not proposing to amend Part 335 of its regulations to conform them to the SEC's "issuer tender offer" regulations at this time. As in the case of the FDIC's position set forth below on the SEC's "going private" transaction regulations (17 CFR 240.13e–3 and 240.13e–100), the FDIC must approve any reduction in the amount, or the retirement of any part of a nonmember insured bank's common or preferred capital stock pursuant to Section 18(i) of the Federal Deposit Insurance Act. 12 U.S.C. 1828(i)(1970) the FDIC also notes that issuer tender offers are very rare among nonmember insured banks. Therefore, instead of adopting substantially similar regulations to Rule 13e–4 and Schedule 13E–101, the FDIC will deny its approval of the reduction in the amount or the retirement of any part of a nonmember insured bank's equity securities registered under Section 12 of the Act unless the requirements of Rules 13e–4 and 13e–101 are met in all material respects.

Although this policy is effective immediately, the FDIC specifically invites comments on whether this approach is preferable to adopting a new regulation and schedule as a means of protecting investors from fraudulent, deceptive, or manipulative acts or practices in connection with "issuer tender offers."

2. Going Private Transactions. On August 2, 1979 the SEC adopted a new rule and schedule (17 CFR 240.13e–3 and 240.13e–100) related to "going private" transactions by public companies and their affiliates. The rule and schedule prohibit fraudulent, deceptive and manipulative acts or practices in connection with "going private" transactions and prescribe new filing, disclosure and dissemination requirements as a means reasonably designed to prevent such acts and practices. SEC Rel. No. 34–16075, 44 FR 46736 (August 8, 1979).

A Rule 13e–3 ("going private") transaction is defined to mean any transaction or series of transactions involving one or more of the following: (a) A purchase of any equity security by the issuer or an affiliate of the issuer; (b) a tender offer or request of invitation for tenders of any equity security made by the issuer; or (c) a solicitation of shareholder proxies or consents in connection with (1) any merger, consolidation, reclassification, reorganization, or similar corporate transaction between an issuer and an affiliate, (2) a sale of substantially all the assets of an issuer to an affiliate or group of affiliates, or (3) a reverse stock split involving the purchase of fractional interests.

Rule 13e–3 applies when any of the above transactions has a reasonable likelihood or a purpose of causing any class of the issuer's securities subject to Section 12(g) (or 15(d)) of the Act to be held by fewer than 300 persons, thereby allowing the issuer to terminate its reporting obligations under the Act, or causing a class of the issuer's securities to be delisted on any national exchange or to be no longer quoted on an interdealer quotation system.

Issuers and their affiliates engaging in a Rule 13e–3 transaction must file a Rule 13e–3 Transaction Statement on Schedule 13E–3 with the SEC to disclose, *inter alia*: (1) Information concerning recent purchases by the issuer, and its affiliates, of the issuer's equity securities; (2) information concerning the entity filing the schedule; (3) the purposes of the Rule 13e–3 transaction; (4) a determination of the consideration to be paid for the securities; and (5) a statement concerning the fairness of the Rule 13e–3 transaction to unaffiliated shareholders. Most of the information contained in Schedule 13E–3 must be disclosed to shareholders by means of a proxy statement, registration statement, request for tenders, or other disclosure document. Such disclosure must take place at least 20 days prior to the transaction in question.

The FDIC is not proposing to amend Part 335 of its regulations to conform them to the SEC's "going private" regulations at this time. The FDIC notes that its supervisory powers under the Federal Deposit Insurance Act make those nonmembers insured bank issuers with classes of equity securities registered pursuant to Section 12 subject to more extensive regulatory oversight than most issuers subject to SEC jurisdiction. Pursuant to Section 18 of the FDI Act, the FDIC must approve substantially all of the corporate transactions involving nonmember insured banks subject to Rule 13e–3. Instead of adopting the SEC's "going private" regulations the FDIC will deny its approval to any Rule 13e–3 type corporate transaction requiring FDIC approval unless the requirements of Rules 13e–3 and 13e–100 are met in all material respects.

Although this policy is effective immediately, the FDIC specifically invites comments on whether this approach is preferable to adopting a new regulation and schedule as a means of protecting investors from fraudulent, deceptive or manipulative acts of practices in connection with "going private" transactions.

C. Proposed Reformating of Part 335

1. Background. Part 335 was originally drafted as a result of the authority vested in the FDIC by the Securities Acts Amendments of 1964, section 3, Pub. L. No. 88–467; 55 Stat. 565–568 (August 20, 1964). The FDIC at that time was attempting to cull a unified regulation from a large number of SEC regulations issued under the Act, which were spread throughout 17 CFR Part 210, 240 and 241. Thus, a major objective was to adopt those regulations applicable to nonmember insured banks, in order to save banks the trouble of extracting them from other regulations dealing with brokers and dealers, other types of companies, and companies subject to the Securities Act of 1933 (which bank issuers generally are not). The result was seven concise sections of regulation and nine sections dealing with forms or formats. FDIC feels that format adopted in 1964 met that objective well. However, the Act of October 28, 1974, Pub. L. No. 93–495, 88 Stat. 1503 (October 28, 1974), amended Section 12(i) for the Act to require the FDIC to publish (or publish reasons for failing to so publish) substantially similar regulations to those of the SEC promptly. In recent years, SEC regulation has become much more voluminous and complex. Fitting such regulations into the format established in 1964 has become more difficult and produced a regulation which is very hard to read. Thus, we feel a reformating is necessary and timely in view of the proposed addition of a completely revised regulation dealing with tender offers.

2. The Reformating Concept. FDIC's objective in proposing a new format is to combine the advantage of aggregating applicable regulations of the SEC in a form that will be usable to banks and the advantage of shorter integrated regulations that bear a similarity to SEC regulations. This will aid those who are

familiar with the regulations and ease the process of amending our regulations when SEC regulations change.

FDIC would adopt a rule form somewhat similar to that of the SEC. However, the rules would be arranged in a manner consistent with the actual use of the regulations by banks and by others. The current language of Part 335 would be largely unaltered and would remain the same in every substantive respect. Essentially the longer sections would be broken up into more concise rules which would each contain a section heading. The table of contents would be more useful and the more specialized rules would be easier to find. Further, citations would be much shorter and would often refer to the same rule. The FDIC anticipates that the resulting regulations would be much simpler for its staff, banking personnel, and the general public as a whole.

3. *The Proposed Reformat.*

The new format would have the following table of contents:

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Part 335—Securities of Insured State Nonmember Banks

Contents—Part 335

	New section numbers	Old section numbers
Subpart A—General Provisions		
Scope of part	335.101	335.1
Definitions	335.102	335.2
Subpart B—Shareholder Meetings		
Material required to be filed	335.201	335.5(f)
Requirement of statement	335.202	335.5(a)
Exceptions	335.203	335.5(b)
Annual report to securityholders to accompany statements	335.204	335.5(c)
Solicitation prior to furnishing required proxy statement	335.205	335.5(o)
False or misleading statements	335.206	335.5(h)
Requirements as to proxy	335.207	335.5(d)
Prohibition of certain solicitations	335.208	335.5(j)
Presentation of information in statement	335.209	335.5(e)
Mailing communications for securityholders	335.210	335.5(g)
Proposals of securityholders	335.211	335.5(k)
Form for Proxy Statement (Form F–5)	335.2020	335.51
Statement where management does not solicit proxies (Form F–5A)	335.2021	335.51
Special provisions applicable to election contests	335.220	335.5(i)
Form for statement in election contests (Form F–6)	335.2022	335.52
Subpart C—Bank Reporting		
Requirement of registration statement	335.301	335.4(a)
Registration of securities of successor bank	335.302	335.4(a)(1)
Registration effective as to class or series	335.303	335.4(b)
Acceleration of effectiveness of registration	335.304	335.4(c)
Exchange certification	335.305	335.4(d)
When securities are deemed to be registered	335.306	335.4(z)
Form for registration of securities of a bank pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934 (Form F–1)	335.3030	335.41
Form for registration of an additional class of securities of a bank pursuant to Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (Form F–10)	335.3031	335.46
Requirement of annual reports and annual report of predecessors	335.310	335.4(e)(f)
Exception from requirements of annual report	335.311	335.4(g)
Form for annual report of bank (Form F–2)	335.3032	335.42
Current report	335.320	335.4(h)
Form for current report of a bank (F–3)	335.3033	335.43
Quarterly Reports	335.330	335.4(i)
Form for quarterly report of bank (F–4) to be filed pursuant to Section 335.4(i)	335.3034	335.44
Notification to National Securities Associations	335.340	335.4(h)
Additional information	335.350	335.4(j)
Information not available	335.351	335.4(k)
Disclaimer of control	335.352	335.4(/)
Incorporation by reference	335.353	335.4(m)
Summaries or outlines of documents	335.354	335.4(n)
Omission of substantially identical documents	335.355	335.4(o)
Additional exhibits	335.356	335.4(p)
Incorporation of exhibits by reference	335.357	335.4(q)
Extension of time for furnishing information	335.358	335.4(r)
Number of copies, signature, binding	335.359	335.4(s)
Requirements as to paper, printing, and language	335.360	335.4(t)
Preparation of statement or report	335.361	335.4(u)
Riders, inserts	335.362	335.4(v)
Amendments	335.363	335.4(w)
Title of securities	335.364	335.4(x)
Interpretation of requirements	335.365	335.4(y)

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Part 335—Securities of Insured State Nonmember Banks

Contents—Part 335

The above table does not reflect a recent change in financial statement requirements.

D. Certain Factors

1. Competition. As required by section 23(a)(2) of the Act, the SEC has specifically considered the impact which the proposed amendments would have on competition and concluded that they impose no significant burden on competition. In any event, the SEC determined that any possible burden would be outweighed by, and is necessary and appropriate to achieve, the benefits of these amendments to investors and registrants. The FDIC believes the amendments would have no effect upon competition. The FDIC requests comments concerning the impact these amendments may have upon competition.

2. Alternatives Considered. Section 12(i) of the Act requires the FDIC to issue regulations substantially similar to those of the SEC or publish its reasons for not doing so. The FDIC has no reason to believe that these regulations are not applicable to the banking industry. Thus, it is proposing the amendments.

3. Reporting and Recordkeeping. The amendments primarily impose requirements of public disclosure by tender offers and shareholders. These involve filings with the FDIC as well. They should not be constructed as reporting or recordkeeping requirements.

4. Cost-Benefit Analysis. As noted above, amendments are required by statute. Therefore, a cost-benefit analysis was not prepared. The FDIC feels that at this time it is not appropriate to utilize a flexible regulatory approach (small bank/large bank) since shareholders and investors in small banks have the need for the same quality information provided to shareholders and investors of large Banks. The Office of Small Business Policy at the Securities and Exchange Commission is studying the feasibility of reducing reporting requirements for small issuers. FDIC has asked to participate in such developments. The FDIC requests comments upon any increase in cost of additional burden the amendments may impose, which would not be outweighed by the benefits provided the bank, its shareholders and the public. The FDIC is specifically requesting information from banks concerning projected start-up costs and continuing costs. To the extent feasible, these estimates should be allocated among the various new areas of regulation.

By order of the Board of Directors, September 15, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

It is proposed to amend 12 CFR Part 335, as follows:

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

1. The title of Part 335 would be amended to read "Part 335—Securities of Nonmember Insured Banks" as set forth above.

2. Section 335.1 would be amended as follows:

§ 335.1 Scope of part.

This part is issued by the Federal Deposit Insurance Corporation (the "FDIC" or the "Corporation") under Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78) (the "Act") and applies to all securities of an insured bank (including a foreign bank having an insured branch) ("foreign bank") which is neither a member of the Federal Reserve System nor a District bank ("bank") that are subject to the registration requirements of Section 12(b) or Section 12(g) of the Act.

3. A new § 335.3–1 would be added to read as follows:

§ 335.3–1 Liability for forward-looking statements.

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of a bank, or by an outside reviewer retained by the bank, shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This § 335.3–1 applies to (1) a forward-looking statement (as defined in paragraph (c) below) made in an annual report to shareholders meeting the requirements of § 335.5(c) or in a document filed with the FDIC under the Act, (2) a statement reaffirming the forward-looking statement referred to in paragraph (b)(1) of this section subsequent to the date the document was filed or the annual report was made publicly available, or (3) a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such forward-looking statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward-looking statement.

(c) For the purpose of this section the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings; or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in paragraph (c) (1), (2), or (3) of this section.

(d) For the purpose of this § 335.3–1 the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Act or the regulations issued thereunder.

(e) Notwithstanding any of the provisions of paragraphs (a) through (d), this § 335.3–1 shall apply only to forward-looking statements made by or on behalf of a bank if, at the time such statements are made or reaffirmed, the bank is subject to the reporting requirements of the Act and has filed its most recent annual report on Form F–2.

4. In § 335.4, paragraph (a) would be amended by adding new subparagrpahs (4) and (5) as follows:

§ 335.4 Registration statements and reports.

(a) * * *

(4) *Exemptions for American depository receipts and certain foreign securities.* (i)(A) Securities of any class issued by any foreign bank shall be exempt from Section 12(g) of the Act if the class has fewer than 300 holders resident in the United States. This exemption shall continue until the next fiscal year end at which the bank has a class of equity securities held by 300 or more persons resident in the United States. For the purpose of determining whether a security is exempt pursuant to this paragraph, securities held of record by persons resident in the United States shall be determined as provided in § 335.2(*1*) except that securities held of record by a broker, dealer or bank or nominee for any of them in the United States for the accounts of customers resident in the United States shall be counted as held in the United States by the number of separate accounts for which the securities are held. The bank may rely in good faith on information as to the number of such separate accounts supplied by all owners of the class of its securities which are borkers, dealers or banks in the United States or a nominee for any of them.

(B) Registration of any class of security by a foreign bank under Section 12(g) of the Act shall be terminated ninety days, or such shorter period as the FDIC may determine, after the bank files a certification with the FDIC that the number of holders resident in the United States of such class of security is reduced to less than 300 persons. Termination of registration shall be deferred pending final determination on the question of denial.

(ii)(A) Securities of any foreign private bank shall be exempt from Section 12(g) of the Act if the bank, or a government official or agency of the country of the bank's domicile or in which it is incorporated or organized,

(*1*) Shall furnish to the FDIC whatever information in each of the following categories ("required public information") the bank during its last fiscal year (*i*) has made public under the law of the country of its domicile or in which it is incorporated or organized, (*ii*) has filed with a stock exchange on which its securities are traded and which was made public by such exchange, or (*iii*) has distributed to its security holders;

(*2*) Shall furnish to the FDIC a list identifying the required public information and stating when and by whom it is required to be made public, filed with any such exchange or distributed to security holders;

(*3*) Shall furnish to the FDIC, during each subsequent fiscal year, whatever required public information is made public, promptly after such information is made public; and

(*4*) Shall furnish to the FDIC a revised list reflecting any changes in the kind of required public information promptly after the end of any fiscal year in which any changes occur.

(B) The required public information shall be furnished on or before the date on which a registration statement under Section 12(g) of the Act would otherwise be required to be filed.

(C) The required public information is that about which investors ought reasonably to be informed with respect to the bank and its subsidiaries concerning: The financial condition or results of operations; changes in business; acquisitions or dispositions of assets; issuance, redemption or acquisitions or their securities; changes in management or control, the granting of options or the payment of other remuneration to directors or officers' transactions with directors, officers or principal security holders; and any other information about which investors ought reasonably to be informed.

(D) Only one complete copy of any information or document need be furnished under § 335.4(a)(4)(ii)(A). If the bank has prepared or caused to be prepared an English translation or substantially equivalent English version of any information or document which would otherwise be furnished, such translation or version shall be furnished and the information or document in the original language need not be furnished. Such information and documents need not be under cover of any prescribed form and shall not be deemed to be "filed" with the FDIC or otherwise subject to the liabilities of Section 18 of the Act.

(E) The furnishing of any information or document under § 335.4(a)(4)(ii) shall not constitute an admission for any purpose that the bank is subject to the Act.

(iii) American Depository Receipts for the securities of any foreign bank shall be exempt from Section 12(g) of the Act.

(iv) Securities of any foreign private bank, other than a North American bank, which has any class of securities registered on a national securities exchange pursuant to Section 12(b) of the Act or any foreign private bank which is required to file reports pursuant to Section 15(d) of the Act shall be exempt from Section 12(g) of the Act.

(v) The exemptions provided by § 335.4(a)(4)(ii) and (iv) shall not be available for any class of securities if at the end of the last fiscal year of the

bank (A) more than 50 per cent of the outstanding voting securities of such issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States and (B) the business of such bank is administered principally in the United States or 50 per cent or more of the members of its Board of Directors are residents of the United States. For the purpose of this paragraph the term "resident", as applied to security holders, shall mean any person whose address appears on the records of the bank, the voting trustee or the depositary as being located in the United States.

(vi) The exemption provided by § 335.4(a)(4)(ii)(A) shall not be available for securities of any foreign bank which within one year prior to the date as of which registration of such securities under Section 12(g) of the Act is required, has had the same or any other class of securities registered under Section 12 of the Act, nor shall such exemption be available for securities the registration of which under Section 12(g) of the Act is required as a result of the termination of an exemption under § 335.4(a)(4)(iv).

(5) *Reports of foreign private banks.* (i) Every foreign private bank which is subject to § 335.4(e) shall make reports on Form F–4A, except that this rule shall not apply to issuers of American depositary receipts for securities of any foreign bank.

(ii) Such reports shall be transmitted promptly after the information required by Form F–4A is made public by the bank, by the country of its domicile or under the laws of which it was incorporated or organized, or by a foreign securities exchange with which the bank has filed the information.

(iii) Reports furnished under § 335.4(a)(5) shall not be deemed to be "filed" with the FDIC or otherwise subject to the liabilities of Section 18 of the Act.

* * * * *

5. In § 335.4, paragraph (h)(3)(i) would be amended by deleting the penultimate sentence "The requirement that an amendment be filed with respect to an acquisition which materially increases the percentage of the class beneficially owned shall not apply if the acquisition is exempted by Section 13(d)(6)(B) of the Act.".

6. In § 335.5, paragraphs (b), (d) and (e) would be revised as follows:

§ 335.5 Proxy statements and other solicitations under Section 14 of the Act.

* * * * *

(b) *Exceptions.* The requirements of this § 335.5 shall not apply to the following:

* * * * *

(5) The furnishing of proxy voting advice by any person (the "advisor") to any other person with whom the advisor has a business relationship, if:

(i) The advisor renders financial advice in the ordinary course of his business;

(ii) The advisor discloses to the recipient of the advice any significant relationship with the bank or any of its affiliates, or a shareholder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter;

(iii) The advisor receives no special commission or remuneration for furnishing the proxy voting advice from any person other than a recipient of the advice and other persons who receive similar advice under this subsection; and

(iv) The proxy voting advice is not furnished on behalf of any person soliciting proxies or on behalf of a participant in an election subject to the provisions of § 335.5(i).

Note.—The solicitations excepted by paragraphs (b)(1) and (b)(5) remain subject to the prohibitions against false and misleading statements in § 335.5(b).

* * * * *

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type the identity of the persons on whose behalf the solicitation is made, (ii) shall provide a specifically designated blank space for dating the proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (d)(3) of this section.

(2)(i) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to therein as intended to be acted upon, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by the security holder if the form of proxy states in bold-faced type how the shares represented by the proxy are intended to be voted in each such case.

(ii) A form of proxy which provides for the election of directors shall set forth the names of persons nominated for election as directors. Such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

(A) A box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld; or

(B) An instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee; or

(C) Designated blank spaces in which the shareholder may enter the names of nominees with respect to whom the shareholder chooses to withhold authority to vote; or

(D) Any other similar means, provided that clear instructions are furnished indicating how the shareholder may withhold authority to vote for any nominee.

Such form of proxy also may provide a means for the security holder to grant authority to vote for the nominees set forth, as a group, provided that there is a similar means for the security holder to withhold authority to vote for such group of nominees. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority, provided that the form of proxy so states in bold-face type.

Instructions. 1. Paragraph (ii) does not apply in the case of a merger, consolidation or other plan if the election of directors in an intergral part of the plan.

2. If applicable state law gives legal effect to votes cast against a nominee, then in lieu of, or in addition to, providing a means for security holders to withhold authority to vote, the bank should provide a similar means for security holders to vote against each nominee.

* * * * *

(e) * * *

(6) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the bank for inclusion in the bank's proxy statement and form of proxy relating to that meeting, such date to be calculated in accordance with the provisions of § 335.5(k)(iii)(A). If the date of the next annual meeting is subsequently advanced by more than 30 calendar days or delayed by more than

90 calendar days from the date of the annual meeting to which the proxy statement relates, the bank shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

* * * * *

7. In § 335.5(h)(1) the second sentence is amended by deleting the term, "or dividends.".

8. In § 335.5 paragraphs (l) and (m) would be deleted as follows:

§ 335.5 Proxy statements and other solicitations under Section 14 of the Act.

* * * * *

(l)–(m) [Reserved]

* * * * *

9. In § 335.6 paragraphs (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u) and (v) would be redesignated (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w) and a new paragraph (j), would be added as follows:

§ 335.6 Reports of directors, officers, and principal stockholders.

* * * * *

(j) *Exemption for acquisitions under dividend reinvestment plans.* Any acquisition of securities resulting from reinvestment of dividends or interest shall be exempt from Section 16 if it is made pursuant to a plan providing for the regular reinvestment in such securities of dividends payable thereon or of dividends or interest payable on other securities of the same bank. *Provided,* That the plan is made available on the same terms to all holders of securities of the class on which the reinvested dividends or interest are being paid.

* * * * *

10. New §§ 335.8–1 through 335.8–9 would be added to read as follows:

§ 335.8–1 Scope and definitions applicable to §§ 335.8–1 through 335.809 (the "tender offer regulations").

(a) *Scope.* Sections 335.8–1 through 335.8–9 (the "tender offer regulations") shall apply to any tender offer which is subject to Section 14(d)(1) of the Act, including, but not limited to, any tender offer for securities of a class described in that section which is made by an affiliate of the bank issuer of such class.

(b) *Definitions.* Unless the context otherwise requires, all terms used in the tender offer regulations have the same meaning as in the Act and in § 335.2. In addition, for purposes of Section 14(d) of the Act and the tender offer regulations, the following definitions apply:

(1) The term "bidder" means any person who makes a tender offer or on whose behalf a tender offer is made: *Provided, however,* That the term does not include a bank which makes a tender offer for securities of any class of which it is the issuer.

(2) The term "subject bank" means any issuer of securities which are sought by a bidder pursuant to a tender offer.

(3) The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer.

(4) The term "beneficial owner" shall have the same meaning as that set forth in § 335.4(h)(5): *Provided, however,* That, except with respect to §§ 335.8–3 and 335.8–9(d) and Item 6 of Form F–13, the term shall not include a person who does not have or share investment power or who is deemed to be a beneficial owner by virtue of § 335.4(h)(5)(iv)(A).

(5) The term "tender offer material" means:

(i) The bidder's formal offer, including all the material terms and conditions of the tender offer and all amendments thereto;

(ii) The related transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depositary) and all amendments thereto; and

(iii) Press releases, advertisements, letters and other documents published by the bidder or sent or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer.

(6) The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for a corporation.

(7) The term "business day" means any day, other than Saturday, Sunday or a Federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern time. In computing any time period under Section 14(d)(5) or Section 14(d)(6) of the Act or under § 335.8, the date of the event which begins the running of such time period shall be included *except that* if such event occurs on other than a business day such period shall begin to run on and shall include the first business day thereafter.

(8) The term "security position listing" means, with respect to securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

§ 335.8–2 Date of commencement of a tender offer.

(a) *Commencement.* A tender offer shall commence for the purposes of Section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(1) The long form publication of the tender offer is first published by the bidder under § 335.8–4(a)(1);

(2) The summary advertisement of the tender offer is first published by the bidder under § 335.8–4(a)(2);

(3) The summary advertisement or the long form publication of the tender offer is first published by the bidder under § 335.8–4(a)(3);

(4) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered under the Securities Act of 1933 (15 U.S.C. 77), are first published or sent or given by the bidder to security holders; or

(5) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in paragraphs (a)(1) through (a)(4) of this section.

(b) *Public announcement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which includes the information in paragraph (c) of this section with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under Section 3 of the Securities Act of 1933 (15 U.S.C. 77) shall be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under paragraph (a)(5) of this section on the date of such public announcement if within five business days of such public announcement, the bidder either:

(1) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event paragraph (a)(5) of this section shall not apply to the initial public announcement; or

(2) Complies with § 335.8–3(a) and contemporaneously disseminates the disclosure required by § 335.8–6 to security holders under § 335.8–4 or otherwise in which event:

(i) The date of commencement of such tender offer under paragraph (a) of this

section will be determined by the date on which information required by § 335.8–6 is first published or sent or given to security holders under § 335.8–4 or otherwise; and

(ii) Notwithstanding the preceding paragraph, Section 14(d)(7) of the Act shall be deemed to apply to such tender offer from the date of such public announcement.

(c) *Information.* The information referred to in paragraph (b) of this section is as follows:

(1) The identity of the bidder;

(2) The identity of the subject bank; and

(3) The amount and class of securities being sought and the price or range of prices being offered therefor.

(d) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which only discloses the information in paragraphs (d)(1) through (d)(3) of this section concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under Section 3 of the Securities Act of 1933 (15 U.S.C. 77) shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section.

(1) The identity of the bidder;

(2) The identity of the subject bank; and

(3) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject bank which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(e) *Announcement made under SEC Rule 135.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which discloses only the information in SEC Rule 135(a)(4) (17 CFR 230.135(a)(4)) concerning a tender offer in which the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 (15 U.S.C. 77) shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section: *Provided* That such bidder files a registration statement with the SEC concerning the securities promptly after the public announcement.

§ 335.8–3 Filing and transmission of tender offer statement.

(a) *Filing and transmittal.* No bidder shall make a tender offer if, after consummation thereof, such bidder would be the beneficial owner of more than 5 percent of the class of the subject bank's securities for which the tender offer is made, unless as soon as practicable on the date of the commencement of the tender offer the bidder:

(1) Files with the FDIC six copies of a Tender Offer Statement on Form F–13 (§ 335.54), including all exhibits thereto;

(2) Hand delivers a copy of such Form F–13, including all exhibits thereto;

(i) To the subject bank at its principal executive office; and

(ii) To any other bidder, which has filed a Form F–13 with the FDIC relating to a tender offer which has not yet terminated for the same class of securities of the subject bank, at such bider's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Form F–13);

(3) Gives telephonic notice of the information required by § 335.8–6(e)(2) (i) and (ii) and mails by means of first class mail a copy of such Form F–13, including all exhibits thereto:

(i) To each national securities exchange where such class of the subject bank's securities is registered and listed for trading (which may be based upon information contained in the subject bank's most recent Annual Report on Form F–2 (§ 335.42) filed with the FDIC unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

(ii) To the National Association of Securities Dealers, Inc. ("NASD") if such class of the subject bank's securities is authorized for quotation in the NASDAQ interdealer quotation system.

(b) *Additional materials.* The bidder shall file with the FDIC six copies of any additional tender offer materials as an exhibit to the Form F–13 required by this section, and if a material change occurs in the information set forth in such Form F–13, six copies of an amendment to Form F–13 (each of which shall include all exhibits other than those required by Item 11(a) of Form F–13) disclosing such change and shall send a copy of such additional tender offer material or such amendment to the subject bank and to any exchange and/or the NASD, as required by paragraph (a) of this section, promptly but not later than the date such additional tender offer material or such change is first published, sent or given to security holders.

(c) *Certain announcements.* Notwithstanding paragraph (b) of this section, if the additional tender offer material or an amendment to Form F–13 discloses only the number of shares deposited to date, and/or announces an extension of the time during which shares may be tendered, then the bidder may file such tender offer material or amendment and send a copy of such tender offer material or amendment to the subject bank, any exchange and/or the NASD, as required by paragraph (a) of this section, promptly after the date such tender offer material is first published or sent or given to security holders.

§ 335.8–4 Dissemination of certain tender offers.

(a) *Materials deemed published or sent or given.* A tender offer in which the consideration consists solely of cash and/or securities exempt from registration under Section 3 of the Securities Act of 1933 (15 USC 77) shall be deemed "published or sent or given to security holders" within the meaning of Section 14(d)(1) of the act if the bidder complies with all of the requirements of any one of the following sub-paragraphs: *Provided, however,* That any such tender offers may be published or sent or given to security holders by other methods, but with respect to summary publication, and the use of stockholder lists and security position listings under § 335.8–5, only paragraphs (a)(2) and (a)(3) of this section can be followed.

(1) *Long-form publication.* The bidder makes adquate publication in a newspaper or newspapers of long-form publication of the tender offer.

(2) *Summary publication.* (i) The bidder makes adequate publication in a newspaper or newspapers of a summary advertisement of the tender offer; and

(ii) Mails by first class mail or otherwise furnishes with reasonable promptness the bidder's tender offer materials to any security holder who requests such tender offer materials in response to the summary advertisement or otherwise.

(3) *Use of stockholder lists and security position listings.* Any bidder using stockholder lists and security position listings under § 335.8–5 shall comply with paragraphs (a)(1) or (a)(2) of this section on or prior to the date of the bidder's request for such lists or listing under § 335.8–5(a).

(b) *Adequate publication.* Depending on the facts and circumstances involved, adequate publication of a tender offer under this section may require publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation or may require publication in a combination thereof: *Provided, however,* That publication in all editions of a daily newspaper with a national

circulation shall be deemed to constitute adequate publication.

(c) *Publication of changes.* If a tender offer has been published or sent or given to security holders by one or more of the methods enumerated in paragraph (a) of this section, a material change in the information published, sent or given to security holders shall be promptly disseminated to security holders in a manner reasonably designed to inform security holders of such change: *Provided, however,* That if the bidder has elected under § 335.8–5(f)(1) to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials under § 335.8–5, the bidder shall dissseminate material changes in the information published or sent or given to security holders at least pursuant to § 335.8–5.

§ 335.8–5 Dissemination of certain tender offers by the use of stockholder lists and security position listings.

(a) *Obligations of the subject bank.* Upon receipt by a subject bank at its principal executive offices of a bidder's written request, meeting the requirements of paragraph (e) of this section, the subject bank shall comply with the following sub-paragraphs.

(1) The subject bank shall notify promptly transfer agents and any other persons who will assist the subject bank in complying with the requirements of this section of the receipt by the subject bank of a request by a bidder under this section.

(2) The subject bank shall promptly ascertain whether the most recently prepared stockholder list, written or otherwise, within the access of the subject bank was prepared as of a date earlier than ten business days before the date of the bidder's request and, if so, the subject bank shall promptly prepare or cause to be prepared a stockholder list as of the most recent practicable date which shall not be more than ten business days before the date of the bidder's request.

(3) The subject bank shall make an election to comply and shall comply with all of the provisions of either paragraph (b) or paragraph (c) of this section. The subject bank's election once made shall not be modified or revoked during the bidder's tender offer and extensions thereof.

(4) No later than the second business day after the date of the bidder's request, the subject bank shall orally notify the bidder, which notification shall be confirmed in writing, of the subject bank's election made under paragraph (a)(3) of this section. Such notification shall indicate (i) the approximate number of security holders of the class of securities being sought by the bidder, and (ii) if the subject bank elects to comply with paragraph (b) of this section, appropriate information concerning the location for delivery of the bidder's tender offer materials and the approximate direct costs incidental to the mailing to security holders of the bidder's tender offer materials computed in accordance with paragraph (g)(2) of this section.

(b) *Mailing of tender offer materials by the subject bank.* A subject bank which elects under paragraph (a)(3) of this section to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(1) The subject bank shall promptly contact each participant named on the most recent security position listing of any clearing agency within the access of the subject bank and make inquiry of each participant as to the approximate number of beneficial owners of the subject bank securities being sought in the tender offer held by each such participant.

(2) No later than the third business day after delivery of the bidder's tender offer materials under paragraph (g)(1) of this section, the subject bank shall begin to mail or cause to be mailed by means of first class mail a copy of the bidder's tender offer materials to each person whose name appears as a record holder of the class of securities for which the offer is made on the most recent stockholder list referred to in paragraph (a)(2) of this section. The subject bank shall use its best efforts to complete the mailing in a timely manner but in no event shall such mailing be completed in a substantially greater period of time than the subject bank would complete a mailing to security holders of its own materials relating to the tender offer.

(3) No later than the third business day after the delivery of the bidder's tender offer materials under paragraph (g)(1) of this section, the subject bank shall begin to transmit or cause to be transmitted a sufficient number of sets of the bidder's tender offer materials to the participants named on the security position listings described in paragraph (b)(1) of this section. The subject bank shall use its best efforts to complete the transmittal in a timely manner but in no event shall such transmittal be completed in a substantially greater period of time than the subject bank would complete a transmittal to such participants using security position listings of clearing agencies of its own material relating to the tender offer.

(4) The subject bank shall promptly give oral notification to the bidder, which notification shall be confirmed in writing, of the commencement of the mailing under paragraph (b)(2) of this section and of the transmittal under paragraph (b)(3) of this section.

(5) During the tender offer and any extension thereof the subject bank shall use reasonable efforts to update the stockholder list and shall mail or cause to be mailed promptly following each update a copy of the bidder's tender offer materials (to the extent sufficient sets of such materials have been furnished by the bidder) to each person who has become a record holder since the later of (i) the date of preparation of the most recent stockholder list referred to in paragraph (a)(2) of this section or (ii) the last preceding update.

(6) If the bidder has elected under paragraph (f)(1) of this section to require the subject bank to disseminate amendment disclosing material changes to the tender offer materials under this section, the subject bank promptly following delivery of each such amendment, shall mail or cause to be mailed a copy of each such amendment to each record holder whose name appears on the shareholder list described in paragraphs (a)(2) and (b)(5) of this section and shall transmit or cause to be transmitted sufficient copies of such amendment to each participant named on security position listings who received sets of the bidder's tender offer materials under paragraph (b)(3) of this section.

(7) The subject bank shall not include any communication other than the bidder's tender offer materials or amendments thereto in the envelopes or other containers furnished by the bidder.

(8) Promptly following the termination of the tender offer, the subject bank shall reimburse the bidder the excess, if any, of the amounts advanced under paragraph (f)(3)(iii) over the direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this section computed in accordance with paragraph (g)(2) of this section.

(c) *Delivery of stockholder lists and security position listings.* A subject bank which elects under paragraph (a)(3) of this section to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(1) No later than the third business day after the date of the bidder's request, the subject bank shall furnish to the bidder at the subject bank's principal executive office a copy of the names and addresses of the record holders on the most recent stockholder list referred to in paragraph (a)(2) of this

section and a copy of the names and addresses of participants identified on the most recent security position listing of any clearing agency which is within the access of the subject bank.

(2) If the bidder has elected under paragraph (f)(1) of this section to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials, the subject bank shall update the stockholder list by furnishing the bidder with the name and address of each record holder named on the stockholder list, and not previously furnished to the bidder, promptly after such information becomes available to the subject bank during the tender offer and any extensions thereof.

(d) *Liability of subject bank and others.* Neither the subject bank nor any affiliate or agent of the subject bank nor any clearing agency shall be:

(1) Deemed to have made a solicitation or recommendation respecting the tender offer within the meaning of Section 14(d)(4) of the Act based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more requirements of this section;

(2) Liable under any provision of the Federal securities laws to the bidder or to any security holder based solely upon the inaccuracy of the current names or addresses on the stockholder list or security position listing, unless such inaccuracy results from a lack of reasonable care on the part of the subject bank or any affiliate or agent of the subject bank;

(3) Deemed to be an "underwriter" within the meaning of Section (2)(11) of the Securities Act of 1933 (15 U.S.C. 77) for any purpose of that Act or any rule or regulation issued thereunder based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this section; or

(4) Liable under any provision of the Federal securities laws for the disclosure in the bidder's tender offer materials, including any amendment thereto, based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this section.

(e) *Content of the bidder's request.* The bidder's written request referred to in paragraph (a) of this section shall include the following:

(1) The identity of the bidder;

(2) The title of the class of securities which is the subject of the bidder's tender offer;

(3) A statement that the bidder is making a request to the subject bank under paragraph (a) of this section for the use of the stockholder list and security position listings for the purpose of disseminating a tender offer to security holders;

(4) A statement that the bidder is aware of and will comply with the provisions of paragraph (f) of this section;

(5) A statement as to whether or not it has elected under paragraph (f)(1) of this section to disseminate amendments disclosing material changes to the tender offer material under this section; and

(6) The name, address and telephone number of the person whom the subject bank shall contact under paragraph (a)(4) of this section.

(f) *Obligations of the bidder.* Any bidder who requests that a subject bank comply with the provisions of paragraph (a) of this section shall comply with the following subparagraphs:

(1) The bidder shall make an election whether or not to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials under this section, which election shall be included in the request referred to in paragraph (a) of this section and shall not be revocable by the bidder during the tender offer and extensions thereof.

(2) With respect to a tender offer subject to Section 14(d)(1) of the Act in which the consideration consists solely of cash and/or securities exempt from registration under Section 3 of the Securities Act of 1933 (15 U.S.C. 77), the bidder shall comply with § 335.8–4(a)(3).

(3) If the subject bank elects to comply with paragraph (b) of this section,

(i) The bidder shall promptly deliver the tender offer materials after receipt of the notification from the subject bank as provided in paragraph (a)(4) of this section;

(ii) The bidder shall promptly notify the subject bank of any amendment to the bidder's tender offer materials requiring compliance by the subject bank with paragraph (b)(6) of this section and shall promptly deliver such amendment to the subject bank under paragraph (g)(1) of this section;

(iii) The bidder shall advance to the subject bank an amount equal to the approximate cost of conducting mailings to security holders computed in accordance with paragraph (g)(2) of this section;

(iv) The bidder shall promptly reimburse the subject bank for the direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this section computed in accordance with paragraph (g)(2) of this section which are in excess of the amount advanced under paragraph (f)(2)(iii) of this section; and

(v) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials.

(4) If the subject bank elects to comply with paragraph (c) of this section,

(i) The subject bank shall use the stockholder list and security position listings furnished to the bidder under paragraph (c) of this section exclusively in the dissemination of tender offer materials to security holders in connection with the bidder's tender offer and extensions thereof;

(ii) The bidder shall return the stockholder lists and security position listings furnished to the bidder under paragraph (c) of this section promptly after the termination of the bidder's tender offer;

(iii) The bidder shall accept, handle and return the stockholder lists and security position listings furnished to the bidder under paragraph (c) of this section to the subject bank on a confidential basis;

(iv) The bidder shall not retain any stockholder list or security position listing furnished by the subject bank under paragraph (c) of this section, or any copy thereof, nor retain any information derived from any such list or listing or copy thereof after the termination of the bidder's tender offer;

(v) The bidder shall mail by means of first class mail, at its own expense, a copy of its tender offer materials to each person whose identity appears on the stockholder list as furnished and updated by the subject bank under paragraphs (c)(1) and (c)(2) of this section;

(vi) The bidder shall contact the participants named on the security position listing of any clearing agency, make inquiry of each participant as to the approximate number of sets of tender offer materials required by each participant, and furnish, at its own expense, sufficient sets of tender offer materials and any amendment thereto to each participant for subsequent transmission to the beneficial owners of the securities being sought by the bidder;

(vii) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials; and

(viii) The bidder shall promptly reimburse the subject bank for direct costs incidental to compliance by the

subject bank and its agents in performing the acts required by this section computed in accordance with paragraph (g)(2) of this section.

(g) *Delivery of materials, computation of direct costs.* (1) Whenever the bidder is required to deliver tender offer materials or amendments to tender offer materials, the bidder shall deliver to the subject bank at the location specified by the subject bank in its notice given under paragraph (a)(4) of this section a number of sets of the materials or of the amendment, as the case may be, at least equal to the approximate number of security holders specified by the subject bank in such notice, together with appropriate envelopes or other containers therefor: *Provided, however,* That delivery shall be deemed not to have been made unless the bidder has complied with paragraph (f)(3)(iii) of this section at the time the materials or amendments, as the case may be, are delivered.

(2) The approximate direct cost of mailing the bidder's tender offer materials shall be computed by adding (i) the direct cost incidental to the mailing of the subject bank's last annual report to shareholders (excluding employees time), less the costs of preparation and printing of the report, and postage, plus (ii) the amount of first class postage required to mail the bidder's tender offer materials. The approximate direct costs incidental to the mailing of the amendments to the bidder's tender offer materials shall be computed by adding (iii) the estimated direct costs of preparing mailing labels, of updating shareholders lists and of third party handling charges plus (iv) the amount of first class postage required to mail the bidder's amendment. Direct costs incidental to the mailing of the bidder's tender offer materials and amendments thereto when finally computed may include all reasonable charges paid by the subject bank to third parties for supplies or services, including costs attendant to preparing shareholder lists, mailing labels, handling the bidder's materials, contacting participants named on security position listings, and for postage, but shall exclude indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject bank. The final billing for direct costs shall be accompanied by an appropriate accounting in reasonable detail.

§ 335.8–6 Disclosure requirements with respect to tender offers.

(a) *Information required on date of commencement.*—(1) *Long-form publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of long-term publication under § 335.8–4(a)(1), such long-form publication shall include the information required by paragraph (e)(1) of this section.

(2) *Summary publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of summary publication under § 335.8–4(a)(2),

(i) The summary advertisement shall contain and shall be limited to, the information required by paragraph (e)(2) of this section; and

(ii) The tender offer materials furnished by the bidder upon the request of any security holder shall include the information required by paragraph (e)(1) of this section.

(3) *Use of stockholder lists and security position listing.* If a tender offer is published or sent or given to security holders on the date of commencement by the use of stockholder lists and security position listings under § 335.8–4(a)(3),

(i) Either (A) the summary advertisement shall contain, and shall be limited to the information required by paragraph (e)(2) of this section, or (B) if long-form publication of the tender offer is made, such long-form publication shall include the information required by paragraph (e)(1) of this section; and

(ii) The tender offer materials transmitted to security holders by use of such lists and security position listings and furnished by the bidder upon the request of any security holder shall include the informaton required by paragraph (e)(1) of this section.

(4) *Other tender offers.* If a tender offer is published or sent or given to security holders other than under § 335.8–4(a), the tender offer materials which are published or sent or given to security holders on the date of commencement of such offer shall include the information required by paragraph (e)(1) of this section.

(b) *Information required in summary advertisement made after commencement.* A summary advertisement published subsequent to the date of commencement of the tender offer shall include at least the information specified in paragraphs (e)(1)(i)–(iv) and (e)(2)(iv) of this section.

(c) *Information required in other tender offer materials published after commencement.* Except for summary advertisement described in paragraph (b) of this section and tender offer materials described in paragraphs (a)(2)(ii) and (a)(3)(ii) of this section, additional tender offer materials published, sent or given to security holders subsequent to the date of commencement shall include the information required by paragraphs (e)(1)(v)–viii) of this section which has been previously furnished by the bidder in connection with the tender offer.

(d) *Material changes.* A material change in the information published or sent or given to security holders shall be promptly disclosed to security holders in additional tender offer materials.

(e) *Information to be included.*—(1) *Long-form publication and tender offer materials.* The information required to be disclosed by paragraphs (a)(1), (a)(2)(ii), (a)(3)(i)(B) and (a)(4) of this section shall include the following:

(i) The identity of the holder;

(ii) The identity of the subject bank;

(iii) The amount of the class of securities being sought and the type and amount of consideration being offered therefor;

(iv) The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;

(v) The exact dates prior to which, and after which, security holders who deposit their securities will have the right to withdraw their securities under Section 14(d)(5) of the Act and § 335.8–7 and the manner in which shares will be accepted for payment and in which withdrawal may be effected;

(vi) If the tender offer is for less than all the outstanding securities of a class of equity securities and the bidder is not obligated to purchase all of the securities tendered, the period of periods, and in the case of the period from the commencement of the offer, the date of the expiration of such period during which the securities will be taken up pro rata under Section 14(d)(6) of the Act or § 335.8–8, and the present intention or plan of the bidder with respect to the tender offer in the event of an oversubscription by security holders;

(vii) The disclosure required by Items 1(c); 2 (with respect to persons other than the bidder, excluding sub-items (b) and (d); 3; 4; 5; 6; 7; 8; and 10 of Form F–13 (§ 335.54) or a fair and adequate summary thereof: *Provided, however,* That negative responses to any item or sub-item of Form F–13 (§ 335.54) need not be included; and

(viii) The disclosure required by Item 9 of Form F–13 or a fair and adequate summary thereof. (Under normal circumstances, summary financial information equivalent to that required by paragraph (e) of SEC Guide 59 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 (15 U.S.C. 77) for the periods covered by the financial

information furnished in response to Item 9 will be a sufficient summary. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained).

(2) *Summary publication.* The information required to be disclosed by paragraphs (a)(2)(i) and (a)(3)(i)(A) of this section in a summary advertisement is as follows:

(i) The information required by paragraph (e)(1)(i) through (vi) of this section;

(ii) If the tender offer is for less than all the outstanding securities of a class of equity securities, a statement as to whether the purpose or one of the purposes of the tender offer is to acquire or influence control of the business of the subject bank;

(iii) A statement that the information required by paragraph (e)(1)(vii) of this section is incorporated by reference into the summary advertisement;

(iv) Appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials; and

(v) In a tender offer published or sent or given to security holders by the use of stockholders lists and security position listings under § 335.8–4(a)(3), a statement that a request is being made for such lists and listings and that tender offer materials will be mailed to record holders and will be furnished to brokers, banks and similar persons whose name appears or whose nominee appears on the list of stockholders or, if applicable, who are listed as participants in a clearing agency's security position listing for subsequent transmittal to beneficial owners of such securities.

(3) *No transmittal letter.* Neither the initial summary advertisement nor any subsequent summary advertisement shall include a transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) or any amendment thereto.

§ 335.8–7 Additional withdrawal rights.

(a) *Rights.* In addition to the provisions of Section 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the following periods:

(1) At any time until the expiration of fifteen business days from the date of commencement of such tender offer; and

(2) On the date and until the expiration of ten business days following the date of commencement of another bidder's tender offer other than under § 335.8–2(b) for securities of the same class: *Provided,* That the bidder has received notice or otherwise has knowledge of the commencement of such other tender offer and: *Provided, further,* That withdrawal may only be effected with respect to securities which have not been accepted for payment in the manner set forth in the bidder's tender offer prior to the date such other tender offer is first published, sent or given to security holders.

(b) *Computation of time periods.* The time periods for withdrawal rights under this section shall be computed on a concurrent, as opposed to a consecutive basis.

(c) *Knowledge of competing offer.* For the purposes of this section, a bidder shall be presumed to have knowledge of another tender offer, as described in paragraph (a)(2) of this section, on the date such bidder receives a copy of the Form F–13 (§ 335.54) under § 335.8–2 from such other bidder.

(d) *Notice of Withdrawal.* Notice of withdrawal under this section shall be deemed to be timely upon the receipt by the bidder's depository of a written notice of withdrawal specifying the name(s) of the tendering stockholder(s), the number or amount of the securities to be withdrawn and the name(s) in which the certificate(s) is (are) registered, if different from that of the tendering security holder(s). A bidder may impose other reasonable requirements, including certificate numbers and a signed request for withdrawal accompanied by a signature guarantee, as conditions precedent to the physical release of withdrawn securities.

§ 335.8–8 Exemption from statutory pro rata requirement.

The limited pro rata provisions of Section 14(d)(6) of the Act shall not apply to any tender offer for less than all the outstanding securities of the class for which the tender offer is made to the extent that the bidder provides in the tender offer materials disseminated to security holders on the date of commencement of the tender offer that in the event more securities are deposited during the period(s) described in paragraphs (a) and/or (b) of this section than the bidder is bound or willing to accept for payment, all securities deposited during such period(s) will be accepted for payment as nearly as practicable on a pro rata basis, disregarding fractions, according to the number of securities deposited by each depositor.

(a) Any period which exceeds ten days from the date of commencement of the tender offer;

(b) Any period which exceeds ten days from the date that notice of an increase in the consideration offered is first published, sent or given to security holders.

§ 335.8–9 Solicitation/recommendation statements with respect to certain tender offers.

(a) *Filing and transmittal of recommendation statement.* No solicitation or recommendation to security holders shall be made by any person described in paragraph (d) of this section with respect to a tender offer for the securities unless as soon as practicable on the date the solicitation or recommendation is first published or sent or given to security holders the person complies with the following sub-paragraphs.

(1) The person shall file with the FDIC six copies of a Solicitation/Recommendation Statement on Form F–12 (§ 335.53), including all exhibits thereto; and

(2) If the person is either the subject bank or an affiliate of the subject bank,

(i) The person shall hand deliver a copy of the Form F–12 to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (§ 335.54) filed with the FDIC); and

(ii) The persons shall give telephonic notice (which notice to the extent possible shall be given prior to the opening of the market) of the information required by Items 2 and 4(a) of Form F–12 and shall mail a copy of the form to each national securities exchange where the class of securities is registered and listed for trading and, if the class is authorized for quotation in the NASDAQ interdealer quotation system, to the National Association of Securities Dealers, Inc. ("NASD").

(3) If the person is neither the subject bank nor an affiliate of the subject bank,

(i) The person shall mail a copy of the Form F–12 to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (§ 335.54) filed with the FDIC); and

(ii) The person shall mail a copy of the Form F–12 to the subject bank at its principal office.

(b) *Amendments.* If any material change occurs in the information set forth in Form F–12 (§ 335.53) required by this section, the person who filed Form F–12 shall:

(1) File with the FDIC six copies of an amendment of Form F–12 (§ 335.53) disclosing the change promptly, but not later than the date the material is first published, sent or given to security holders; and

(2) Promptly deliver copies and give notice of the amendment in the same manner as that specified in paragraph (a)(2) or paragraph (a)(3) of this section, whichever is applicable; and

(3) Promptly disclose and disseminate the change in a manner reasonably designed to inform security holders of the change.

(c) *Information required in solicitation or recommendation.* Any solicitation or recommendation to holders of a class of securities referred to in Section 14(d)(1) of the Act with respect to a tender offer for the securities shall include the name of the person making the solicitation or recommendation and the information required by Items 1, 2, 3(b), 4, 6, 7 and 8 of Form F-12 (§ 335.53) or a fair and adequate summary thereof: *Provided, however,* That the solicitation or recommendation may omit any of the information previously furnished to security holders of the class of securities by the person with respect to the tender offer.

(d) *Applicability.* (1) Except as provided in paragraphs (d)(2) and (e) of this section, this section shall only apply to the following persons:

(i) The subject bank, any director, officer, employee, affiliate or subsidiary of the subject bank;

(ii) Any record holder or beneficial owner of any security issued by the subject bank, by the bidder, or by any affiliate of either the subject bank or the bidder; and

(iii) Any person who makes a solicitation or recommendation to security holders on behalf of any of the foregoing or on behalf of the bidder other than by means of a solicitation or recommendation to security holders which has been filed with the FDIC under this section or § 335.8–3.

(2) Notwithstanding paragraph (d)(1) of this section, this section shall not apply to the following persons:

(i) A bidder who has filed Form F–13 (§ 335.54) under § 335.8–3;

(ii) Attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity and who furnish information and/or advice regarding the tender offer to their customers or clients on the unsolicitated request of such customers or clients or solely pursuant to a contract or a relationship providing for advice to the customer or client to whom the information and/or advice is given.

(e) *Stop-look-and-listen communications.* This section shall not apply to the subject bank with respect to its communication to its security holders which only:

(1) Identifies the tender offer by the bidder;

(2) States that the tender offer is under consideration by the subject bank's board of directors and/or management;

(3) States that on or before a specified date (which shall be no later than 10 business days from the date of commencement of the tender offer) the subject bank will advise its security holders of (i) whether the subject bank recommends acceptance or rejection of the tender offer; expresses no opinion and remains neutral toward the tender offer; or is unable to take a position with respect to the tender offer and (ii) the reason(s) for the position taken by the subject bank with respect to the tender offer (including the inability to take a position); and

(4) Requests its security holders to defer making determination whether to accept or reject the tender offer until they have been advised of the subject bank's position with respect thereto under paragraph (e)(3) of this section.

(f) *Statement of management's position.* A statement by the subject bank of its position with respect to a tender offer which is required to be published or sent or given to security holders under § 335.8–11 below shall constitute a solicitation or recommendation within the meaning of this section and Section 14(d)(4) of the Act.

§ 335.8–10 Unlawful tender offer practices.

No person who makes a tender offer subject to this Part 335 shall:

(a) Hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent or given to security holders: *Provided, however,* That this paragraph shall not apply to a tender offer by a bank relating to its class of securities which are being sought which is not made in anticipation of or in response to another person's tender offer for securities of the same class;

(b) Increase the offered consideration or the dealer's soliciting fee to be given in a tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published, sent or given to security holders: *Provided, however,* That this paragraph shall not apply to a tender offer by a bank relating to its class of securities which are being sought which is not made in anticipation of or in response to another person's tender offer for securities of the same class;

(c) Fail to pay the consideration offered or return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of a tender offer;

(d) Extend the length of a tender offer without issuing a notice of such extension by press release or other public announcement, which notice shall include disclosure of the approximate number of securities deposited to date and shall be issued no later than the earlier of (1) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer or (2), if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer.

§ 335.8–11 Position of subject company with respect to a tender offer.

(a) *Position of bank.* The bank, no later than 10 business days from the date the tender offer is first published or sent or given, shall publish, send or give to security holders a statement disclosing that the bank:

(1) Recommends acceptance or rejection of the bidder's tender offer;

(2) Expresses no opinion and is remaining neutral toward the bidder's tender offer; or

(3) Is unable to take a position with respect to the bidder's tender offer. Such statement shall also include the reason(s) for the position (including the inability to take a position) disclosed therein.

(b) *Material change.* If any material change occurs in the disclosure required by paragraph (a) of this section, the Bank shall promptly publish, send or give a statement disclosing such material change to security holders.

* * * * *

11. A new § 335.45 would be added to read as follows:

§ 335.45 Report of foreign issuer to be filed under Section 13(a) of the Securities Exchange Act of 1934 (Form F–4A).

Federal Deposit Insurance Corporation

Washington, D.C. 20429

Form F–4A

Report Under Section 13(a) of the Securities Exchange Act of 1934

For the month of ———— 19—

(Translation of registrant's name into English)

(Address of principal executive offices)

General Instructions

A. Rule as to Use of Form F–4A.

This form shall be used by foreign banks which are required to furnish reports under § 335.4(e).

B. Information and Document Required to be Furnished.

Subject to General Instruction D herein, a bank furnishing report on this form shall furnish whatever information, not previously furnished, such bank (i) is required to make public in the country of its domicile or in which it is incorporated or organized pursuant to the law of that country, or (ii) filed with a foreign stock exchange on which its securities are traded and which was made public by that exchange, or (iii) distributed to its security holders.

The information required to be furnished pursuant to (i), (ii), or (iii) above is that which is significant with respect to the bank and its subsidiaries concerning: Changes in management or control; acquisitions or dispositions of assets; bankruptcy or receivership; changes in registrant's certifying accountants; the financial condition and results of operations; material legal proceedings; changes in securities or in the security for registered securities; defaults upon senior securities; material increases or decreases in the amount outstanding of securities or indebtedness; the results the submission of matters to a vote of security holders; and any other information which the registrant deems of material importance to security holders.

This report is required to be furnished promptly after the material contained in the report is made public as described above. The information and documents furnished in this report shall not be deemed to be "filed" for the purpose of Section 18 of the Act or otherwise subject to the liabilities of that section.

C. Preparation and Filing of Report.

This report shall consist of a cover page, the document or report furnished by the bank, and a signature page. Six complete copies of each report on this form shall be sent to the FDIC. At least one complete copy shall be filed with each United States stock exchange on which any security of the registrant is listed and registered under Section 12(b) of the Act. At least one of the copies sent to the FDIC and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

D. Translations of Papers and Documents into English.

Information required to be furnished pursuant to General Instruction B in the form of press releases and all communications or materials distributed directly to securityholders of each class of securities to which any reporting obligation under Section 13(a) of the Act relates shall be in the English language. English versions or adequate summaries in the English language of such materials may be furnished in lieu of original English translations.

Notwithstanding General Instruction B, no other documents or reports, including prospectuses or offering circulars relating to entirely foreign offerings, need be furnished unless the bank otherwise has prepared or caused to be prepared English translations, English versions or summaries in English thereof. If no such English translations, versions or summaries have been prepared, it will be sufficient to provide a brief description in English of any such documents or reports. In no event are copies of original language documents or reports required to be furnished.

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant)

Date———— ————

By ————————————

(Signature)*

*Print the name and title of the signing officer under his signature.

12. In § 335.47 the title of the section and the cover page and General Instruction A of Form F–11 would be revised as follows:

§ 335.47 Acquisition statement to be filed under Section 13(d) of the Securities Exchange Act of 1934 (Form F–11).

Federal Deposit Insurance Corporation

Washington, D.C. 20429

Form F–11

Acquisition Statement Under Section 13(d) of the Securities Exchange Act of 1934

(Amendment No. ————)

* * * * *

General Instructions

* * * * *

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render an answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of pertinent pages of a document containing information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be considered filed with the FDIC for purposes of the Act.

* * * * *

13. In § 335.48 the title of the section and the cover page of Form F–11A would be revised as follows:

§ 335.48 Short form acquisition/ownership statement to be filed under Section 13(d) or Section 13(g) of the Securities Exchange Act of 1934 (Form F–11A).

Federal Deposit Insurance Corporation

Washington, D.C. 20429

Form F–11A

Short Form Acquisition/Ownership Statement Under Section 13(d) or Section 13(g) of the Securities Exchange Act of 1934

(Amendment No.——)

* * * * *

14. In § 335.51 the title of the section and the title of Form F–5 would be revised; Item 5, paragraph (c) would be amended; the instructions following Item 5 would be repositioned; a new paragraph (i) would be added to Item 6; and an Exhibit A following § 335.51 would be added by adding and revising as follows:

§ 335.51 Form for proxy statement or statement where the bank does not solicit proxies (Form F–5).

Form F–5

Proxy Statement or Statement Where Management Does not Solicit Proxies

* * * * *

Item 5 * * *

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights: (1) Make a statement that they have these rights, (2) briefly describe these rights, (3) state briefly the conditions precedent to their exercise, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

(d) * * *

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the bank or its subsidiaries, plus securities deemed outstanding pursuant to § 335.4(h)(5)(iv)(A).

2. For the purpose of this item, beneficial ownership shall be determined in accordance with § 335.4(h)(5). Include such additional subcolumns or other appropriate explanation of Column (3) necessary to reflect amounts as to which the beneficial owner has (1) sole voting power, (2) shared voting power, (3) sole investment power, (4) shared investment power,

3. The bank shall be deemed to know the contents of any statements filed with the FDIC under Section 13(d) of the Act. When applicable, a bank may rely upon information set forth in such statements unless the bank knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information under paragraph (d), the bank may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

(e) * * *

Instruction. The instructions to paragraph (d) shall apply to paragraph (e).

* * * * *

(g) * * *

Instruction. Paragraph (g) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

Item 6—Directors and Principal Officers. * * *

(i) *Election Results.* With respect to those classes of voting stock which participated in the election of direcots at the most recent meeting at which directors were elected:

(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and (2) disclose in tabular format, following the introductory paragraph, the percentage of total shares cast for and withheld from the vote for or, where applicable, cast against, each nominee, which, respectively, were voted for and withheld from the vote for, or voted against, the nominee. When groups of classes or series of classes vote together in the election of a director or directors, they shall be treated as a single class for the purpose of the preceding sentence.

Instructions. 1. Calculate the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors, referred to in paragraph (i)(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date for the meeting.

2. No information need be given in response to Item 6(i) unless, with respect to any class of voting stock (or group of classes which voted together), 5% or more of the total shares cast for and withheld from the vote for or, where applicable, cast against any nominee were withheld from the vote for or cast against the nominee.

3. If a bank elects less than the entire board of directors annually, disclosure is required as to all directors if 5% or more of the total shares cast for and withheld from, the vote for, or, where applicable, cast against any incumbent director were withheld from, or cast against the vote for the director at the meeting at which he was most recently elected.

4. No information need be given in response to Item 6(i) if the issuer has previously furnished to its security holders a report of the results of the most recent meeting of security holders at which directors were elected which includes: (1) A description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each matter; and (2) the information which would be called for by this Item 6(i). If a bank has previously furnished the results to its security holders, this fact should be set forth in the bank's cover letter accompanying the filing of preliminary proxy materials.

* * * * *

15. In § 335.53 the title and contents of Form F–12 would be revised as follows:

§ 335.53 Solicitation/recommendation statement to be filed under Section 14(d)(4) of the Securities Exchange Act of 1934 (Form F–12).

Federal Deposit Insurance Corporation

Washington, D.C. 20429

Form F–12

Solicitation/Recommendation Statement Under Section 14(d)(4) of the Securities Exchange Act of 1934

(Amendment No. ————)

_____

(Name of Subject Bank)

_____

(Name of Person(s) Filing Statement)

_____

(Title of Class of Securities)

_____

((CUSIP) Number of Class of Securities)

_____

(Name, address and telephone number of person authorized to receive notice and communications on behalf of the person(s) filing statement)

Instruction: Six copies of this statement, including all exhibits, should be filed with the FDIC.

General Instructions

A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be considered filed with the FDIC for purposes of the Act.

Item 1—Security and Subject Bank.

State the title of the class of equity securities to which this statement relates and the name and the address of the principal office of the subject bank.

Item 2—Tender Offer of the Bidder.

Identify the tender offer to which this statement relates, the name of the bidder and the address of its principal executive offices or, if the bidder is a natural person, the bidder's residence or business address (which may be based on the bidder's Form F–13) (§ 335.54) filed with the FDIC.

Item 3—Identity and Background.

(a) State the name and business address of the person filing this statement.

(b) If material, describe any contract, agreement, arrangement or understanding and any actual or potential conflict of interest between the person filing this statement or its affiliates and: (1) The subject bank, its principal officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates.

Instruction: If the person filing this statement is the subject bank and if the materiality requirement of Item 3(b) is applicable to any contract, agreement, arrangement or understanding between the subject bank or any affiliate of the subject bank and any principal officer or director of the subject bank, it shall not be necessary to include a description thereof in this statement, or in any solicitation or recommendation published, sent or given to security holders if substantially similar information has been disclosed in any proxy statement, report or other communication sent within one year of the filing date of this statement by the subject bank to the then holders of the securities and has been filed with the FDIC: *Provided* That this statement and the solicitation or recommendation published, sent or given to security holders shall contain specific reference to the proxy statement, report or other communication and that a copy of the pertinent portion(s) thereof is filed as an exhibit to this statement.

Item 4—The Solicitation or Recommendation.

(a) State the nature of the solicitation or the recommendation. If this statement relates to a recommendation, state whether the person filing this statement is advising security holders of the securities being sought by the bidder to accept or reject the tender offer or to take other action with respect to the tender offer and, if so, furnish a description of such other action being recommended. If the person filing this statement is the subject bank and a recommendation is not being made, state whether the subject bank is either expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer.

(b) State the reason(s) for the position (including the inability to take a position) stated in (a) of this item.

Instruction: Conclusory statements such as "The tender offer is in the best interest of shareholders," will not be considered sufficient disclosure in response to Item 4(b).

Item 5—Persons Retained, Employed or to be Compensated.

Identify any person or class of persons employed, retained or to be compensated by the person filing this statement or by any person on its behalf, to make solicitation or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 6—Recent Transactions and Intent with Respect to Securities.

(a) Describe any transaction in the securities referred to in Item 1 which was effected during the past 60 days by the person(s) named in response to Item 3(a) and by any executive officer, director, affiliate or subsidiary of such person(s).

(b) To the extent known by the person filing this statement, state whether the persons referred to in Item 6(a) presently intend to tender to the bidder, sell or hold securities of the class of securities being sought by the bidder which are held of record or beneficially owned by such persons.

Item 7—Certain Negotiations and Transactions by the Subject Bank.

(a) If the person filing this statement is the subject bank, state whether or not any negotiation is being undertaken or is underway by the subject bank in response to the tender offer which relates or would result in:

(1) An extraordinary transaction such as a merger or reorganization, involving the

subject bank or any subsidiary of the subject bank;

(2) A purchase, sale or transfer of a material amount of assets by the subject bank or any subsidiary of the subject bank;

(3) A tender offer for or other acquisition of securities by or of the subject bank; or

(4) Any material change in the present capitalization or dividend policy of the subject bank.

Instruction: If no agreement in principle had yet been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject bank disclosure would jeopardize continuation of the negotiations. In that event, disclosure that negotiations are being undertaken or are underway and are in a preliminary stage will be sufficient.

(b) Describe any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer, other than one described in Item 3(b) of this statement, which relates to or would result in one or more of the matters listed in Item 7(a) (1), (2), (3) or (4).

Item 8—Additional Information to be Furnished.

Furnish any additional information necessary to make the required statements, in light of the circumstances under which they are made, materially misleading.

Item 9—Material to be Filed as Exhibits.

Furnish a copy of:

(a) Any written solicitation or recommendation which is published or sent or given to security holders in connection with the solicitation or recommendation referred to in Item 4.

(b) Any written instruction, or other material which is furnished to persons making any actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the solicitation or recommendation.

(c) Any contract, agreement, arrangement or understanding described in Item 3(b) or the pertinent portion(s) of any proxy statement, report or other communication referred to in Item 3(b).

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date)

(Signature)

(Name and Title)

Instruction. The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer of a corporation or a general partner of a partnership), evidence of the representative's authority to sign on behalf of that person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

16. In § 335.54, the cover page, General Instructions B and C, and Item 6 of Form F–13 would be revised as follows:

§ 335.54 Tender offer statement to be filed under Section 14(d)(1) of the Securities Exchange Act of 1934 (Form F–13).

Federal Deposit Insurance Corporation

Washington, D.C. 20429

Form F–13

Tender Offer Statement Under Section 14(d)(1) of the Securities Exchange Act of 1934

(Amendment No. ———)

* * * * *

General Instructions

* * * * *

B. Information in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render an answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be considered filed with the FDIC for purposes of the Act.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2–7, inclusive, shall be given with respect to: (i) Each partner of a partnership; (ii) each partner who is named a general partner or who functions as a general partner of a limited partnership; (iii) each member of a syndicate or group; and (iv) each person controlling a partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii), or (iv) of this instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of a corporation; (b) each person controlling a corporation; and (c) each executive officer and director of any corporation ultimately in control of a corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless the item specifies to the contrary.

* * * * *

Item 6—Interest in Securities of the Subject Bank.

* * * * *

Instructions. * * *

2. If the information required by Item 6(b) of this Form F–13 is available to the bidder at the time this statement is initially filed with the FDIC under § 335.8–3(a)(1), the information should be included in the initial filing. However, if the information is not available to the bidder at the time of the initial filing, it shall be filed with the FDIC promptly but in no event later than two business days after the date of filing and, if material, shall be disclosed in a manner reasonably designed to inform security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

* * * * *

[FR Doc. 80–29065 Filed 9–18–80; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–165–77]

Investment Credit for Energy Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to business investment credit for energy property. Changes in the applicable tax law were made by the Energy Tax Act of 1978. These regulations will provide the public with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 18, 1980. The amendments are proposed to be effective, in general, for the period beginning on October 1, 1978, and ending December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–165–77) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Richard L. Mull of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Sevice, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 48 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to certain changes made by section 301(b) of the Energy Tax Act of 1978 (Pub. L. 95–618, 92 Stat. 3174). The proposed regulations are to be issued under the authority contained in Code sections

7805 (68A Stat. 917, 26 U.S.C. 7805) and 38(b) (76 Stat. 962, 26 U.S.C. 38).

Windfall Profit Tax Legislation

The proposed regulation does not reflect any amendments under sections 221–223 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96–223). A subsequent notice of proposed rulemaking will cover those amendments.

In general, a taxpayer may claim a 10-percent investment credit (regular credit) for certain tangible business property. However, structural components of buildings and property used in lodging facilities, in general, do not qualify for the regular credit. The taxpayer may apply the regular credit against a portion of its tax liability. Unused credits may be carried forward or carried back. The regular credit is not refundable. If property for which the regular credit was claimed is disposed of before the end of its estimated useful life, the credit must be recomputed on the basis of its actual life.

For the period beginning October 1, 1978, and ending December 31, 1982, section 301(b) of the Energy Tax Act of 1978 adds a 10-percent credit for energy property (energy credit). The rules for the regular credit apply, in general, to the energy credit. However, the energy credit may offset 100 percent of the tax liability remaining after applying the regular credit. The portion of the energy credit attributable to solar or wind energy property is refundable. The energy credit for property financed by the proceeds of industrial development bonds is limited to 5 percent.

Energy property is defined as alternative energy property, solar or wind energy property, specially defined energy property, recycling equipment, shale oil equipment, and equipment used to produce natural gas from geopressured brine. Energy property must be new section 38 property. For the energy credit only, buildings and structural components of buildings and property used in lodging facilities are treated as section 38 property. However, since this type of property, in general, is not otherwise section 38 property, the property does not qualify for the regular credit. Public utility property does not qualify as certain types of energy property. To be eligible, the original use of acquired property must begin after September 30, 1978, and before January 1, 1983. Property constructed by the taxpayer is eligible only to the extent of basis attributable to construction for the period beginning on October 1, 1978, and ending on December 31, 1982.

Recapture

If energy property is sold or otherwise disposed of, the recapture rules of section 47 apply to both the regular credit and energy credit. The proposed regulations would add a new § 1.47–1(h) to the investment credit recapture rules to make clear that recapture of the energy credit occurs when property ceases to be energy property.

Equipment that initially qualifies as energy property subsequently may cease to perform the energy-conserving function for which it qualified as energy property. For example, a boiler that initially uses coal as a fuel subsequently may be converted to an oil boiler. Obviously, the policies underlying the energy credit would be thwarted to the extent the definitional requirements may be avoided with little or no penalty.

Under the proposed regulation, energy property ceases to be section 38 property for purposes of the energy credit only if by reason of a change in use the property ceases to be energy property. The rules of section 47(a)(1) apply with respect to the energy credit, even if the property otherwise continues to be section 38 property. In effect, section 47(a)(1) applies by separating the term "section 38 property" into its regular and energy credit components.

Relationship to Section 38 Property

Section 1.48–9(b) emphasizes the relationship of the energy property rules set forth in section 48(l) to the basic rules for section 38 property set forth elsewhere in section 48. In general, all of the basic rules of section 48 apply to the energy credit except as specifically modified in section 48(l). Two exceptions are that structural components and lodging facilities both may qualify for the energy credit.

The other rules under section 48(a) for section 38 property, such as the limitations on foreign use (section 48(a)(2)) and tax exempt organization use (section 48(a)(4)), apply to bar the energy credit for property failing those special tests. *See,* S. Rep. No. 95–1324, 95th Cong. 2d Sess. at 64 (Conference Report). In addition, paragraph (b)(2) makes clear that the other rules of section 48 apply as well to energy property. For example, the special pass-through of the investment credit for leased property under section 48(d) applies to the energy credit.

Alternate Substance

In general, the term "alternate substance" is needed to define the fuel or feedstock for certain equipment so that it will qualify as alternative energy property. The underlying policy is that, if an alternate substance is used as a fuel or feedstock, special costs will be incurred requiring a subsidy. In effect, a subsidy is intended for use of alternate substances, although the benefits are provided in the form of a subsidy for equipment using an alternate substance.

The definition of an alternate substance under the proposed regulation excludes an "oil or gas substance". A portion of the House Report defining "oil" and "gas" is not included in the proposed regulation because it is based on language in section 4995(b) of the House bill relating to the oil and gas user tax (HR 8444, 95th Cong., 1st Sess. 4995(b) (1977)) deleted in the Conference. The term "product of oil or gas" was given the same meaning as "primary product" of oil or gas as that term is defined in the DISC regulations.

Alternate substances do not include any synthetic fuels or other products derived from an alternate substance. Methane derived from landfills is an example in the proposed regulation of a product of an alternate substance. The effect of including methane as an alternate substance would be to subsidize ordinary gas boilers or burners merely because they are burning gas derived from landfills. The same would be true of coke gas and geopressured methane. Pelletizing, drying, compacting, and liquefying an alternate substance does not create a new product if no chemical change occurs.

There was a suggestion to include rerefined lubricating oil as an alternate substance. If the intent of the suggestion is to encourage the reprocessing of lubricating oil to lessen demands on crude, the suggestion makes little sense. The suggestion does not indicate an intent to subsidize the use of rerefined lubricating oil as a fuel, such as a boiler fuel. On the other hand, use as lubricating oil would not qualify as boiler use, burner use, or any of the other use or output specified for alternative energy property. Thus, even if the suggestion were adopted, the rerefining of lubricating oil would not, in fact, be subsidized. It may be the suggestion is a reaction to limitations with respect to recycling subsidy under section 46(l)(6). Since lubricating oil is a liquid, and the recycling subsidy is limited to solid wastes, the recycling subsidy is unavailable for equipment that rerefines lubricating oil.

Boiler

There was an issue whether qualifying boiler expenditures should be limited to costs for items specially adapted to use an alternate substance instead of an oil or gas substance. There

are many items of boiler equipment which are the same regardless of the fuel source. If the policy is to subsidize the costs inherent in using an alternate substance instead of an oil or gas substance, there is little reason to subsidize those costs which would be incurred regardless of the substance used as a fuel. However, based on the legislative history and the words of the statute, this restriction was not added. *See,* House Report at 107. The conclusion was that Congress intended to subsidize the entire cost of the boiler if an alternate substance is used as the fuel, even though only certain parts of the boiler are needed solely because the alternate substance is being used.

There was a suggestion to change the primary fuel rule in paragraph (c)(3)(iii) simply to "principal" fuel, *i.e.,* the fuel used more than any other fuel. However, the statute requires a "primary" rule and the House Report states that a 50 percent test is intended. *See,* House Report at 107.

"Primary fuel" also requires a time period for testing whether the fuel is primary. The shorter the time period, the more restrictive the test. If the percentage test is not met during the relevant time period, there is recapture, and the credit cannot be restored subsequently. The conclusion was that applying the test on a yearly basis, rather than on a daily, weekly, or monthly basis is a reasonable interpretation of the legislative intent.

Synthetic Fuel Equipment

Some equipment, such as alcohol distillation equipment, may be used just as readily to produce a fuel as to produce something else (*e.g.,* whiskey). Three possible rules are: (1) if the equipment produces a fuel, it is completely eligible regardless of other uses of the products; (2) if the equipment is not used solely to produce a fuel, the equipment is completely ineligible; or (3) if the equipment is used to some extent to produce a fuel, the equipment is eligible only to the extent of its cost allocable to production of a fuel. The third rule, which requires an allocation, was chosen. The test expressed in the proposed regulation is on an annual basis. If the proportion changes in a later year, recapture may be required.

Modification Equipment

To be eligible under paragraph (c)(6)(i) of the proposed regulation, a modification must result in a substitution of certain substances for an oil or gas substance. The "substitution" rule is restrictive to the extent that, if a modification results simply in use of a qualifying substance in addition to the existing fuel or feedstock, the modification will not qualify for the subsidy. If a modification results in an increase in the equipment's capacity, an incremental cost rule will apply. Replacements of boilers or burners do not qualify under this provision because, otherwise, the "primary fuel" rule under section 48(l)(3)(A) (i) and (ii) could be avoided.

Pollution Control Equipment

Since the statute and the legislative history are silent regarding the definition of pollution control equipment, the proposed regulation uses the definition of pollution control facilities in the regulations under section 103(b)(4)(F) (relating to industrial development bonds for pollution control facilities). The term "facility" used in section 103(b)(4)(F) is, in effect, the same as "equipment" used in section 48(l)(3)(A)(vi).

Paragraph (c)(8) (ii) and (iii) explains the meaning of "required by Federal, State, or local government regulation". One issue is whether regulations referred to in section 48(l)(3)(A)(vi) are limited to pollution control regulations. For purposes of the energy credit, the regulations referred to are not limited to pollution control regulations, but pollution control equipment is defined to ensure the presence of the pollution control function. Indeed, the law may be nuisance law developed under court cases. Typically, however, the law relied upon for qualification under this provision actually will be labeled a pollution control control law and will be statutory in origin.

The determination of what is required by regulation produces countervailing effects. For purposes of section 48(l)(3)(A)(vi), the proposed regulation broadens the categories of equipment that may be eligible for the credit by giving the word "required" a very broad meaning. However, section 48(l)(3)(D) uses the word "required" to exclude certain pollution control equipment used in connection with coal facilities. Here, broadening the term "required" narrows the scope of coal equipment qualifying for the subsidy.

Paragraph (c)(8)(iv) includes a rule for pollution control equipment that performs a pollution control function other than for alternative energy property. In this situation, there are three choices: no credit, full credit, or partial credit. Denying the credit entirely would discourage alternative energy property investments as well as pollution control investments. On the other hand, property that merely incidentally serves a pollution control function for qualifying alternative energy property should not receive the full energy credit. As a result, the regulation contains an incremental cost rule.

Geothermal Equipment

Under the statute, equipment is eligible if used to "produce, distribute, or use" geothermal energy.

Paragraph (c)(10)(iv) describes equipment that "uses" energy derived from a geothermal deposit. Somewhat more restrictive language was need in the proposed regulation because it would be impossible to trace equipment that "uses energy derived from a geothermal deposit." The conclusion was that Congress did not intend a subsidy for equipment that is absolutely indistinguishable from equipment that does not use geothermal energy or energy derived from geothermal energy. Consequently, the proposed regulation includes a "specially adapted" rule and a "dual-function" rule.

The term "geothermal deposit" is defined the same as in the proposed residential energy credit regulation.

Solar Energy Property

It is important first to compare section 48 (l)(4) with the residential energy credit under section 44C(c)(5) for solar energy property:

Business energy credit	Residential energy credit
Applies to "equipment"	Applies to "property."
"Solar energy"	[same.]
Heat, cool, or provide hot water.	[same.]
Electric generating equipment included.	Electric generating equipment excluded.
Passive solar excluded	Passive solar partially included.

Paragraph (d)(1) is intentionally similar in many respects to § 1.44C–2) (f) of the residential solar credit regulations as proposed on May 23, 1979 (44 FR 29923). However, paragraph (d)(1) substitutes "buildings or structures" for "dwelling" and omits the term "transmit" since it appears in section 44C but not in section 48 (l)(4). Other differences between the two credits were sufficient to make a direct cross reference undesirable. If relevant revisions are make in a Treasury decision for the residential credit, corresponding changes may be necessary in this paragraph.

Paragraph (d)(2) follows the Committee Report by excluding passive solar property in its entirety. *See,* Conference Report at 64.

Wind Energy Property

The comparison of the business energy credit and residential energy credit for wind energy property is the same, in general, as noted above for solar energy property. However, the business wind energy credit is limited to equipment used for generating electricity, heating, cooling or providing hot water, while the residential energy credit does not have that limitation. Since the business energy credit provision is narrower, the eligible business energy credit functions are specifically identified in paragraph (e)(2) and the exclusion of equipment using wind energy to generate mechanical energy is specifically set forth.

Specially Defined Energy Property

The description of "principal purpose" in paragraph (f)(2) includes the reduction of heat wasted in a process. This inclusion reflects the legislative history and the actual functions of certain equipment listed in the statute. *See,* House Report at 121. The proposed regulation indicates that if an item performs a function not described in the proposed regulation, an incremental cost rule applies. The provision is directed primarily to automatic energy control system, although the concept could apply to other items as well.

Under paragraph (f)(3), general office activities, paper work, and the like do not constitute a "commercial process." If the focus is exclusively on the word "commercial," all for-profit activities would be included. The correct focus is not on the word "commercial" but on the word "process." Accounting, teaching, practicing law, auditing, etc., are not referred to commonly as a "process." Thus, equipment used in connection with those types of activity is excluded.

The automatic energy control system provision under paragraph (f)(10) includes computers. In view of the word "automatic," computers are clearly intended. However, a single computer can perform a great variety of functions, and it would be inappropriate to qualify an entire computer as part of an automatic energy control system merely because part of its use serves that function. The incremental costs rule covers the problem.

The proposed regulation reserves a provision implementing the Secretary's authority under section 48(l)(5)(L) to add additional items to the list of specially defined energy property because of changes made by the crude oil windfall profit tax legislation regarding the scope of that authority.

Recycling Equipment

The proposed regulation follows the Senate Report except to the extent the final version varies from the Senate Bill. *See,* Senate Report at 82–83 and Conference Report at 66.

The statute's general rule is that equipment that sorts, prepares, or recycles solid waste, as well as equipment that converts solid waste into useful energy, is recycling equipment. See sections 48(l)(6) (A) and (D). Paragraph (g)(1) presents the basic statutory rules and a Senate Report addition for certain onsite equipment. *See,* Senate Report at 83. There was a suggestion to include "reconstituted products for commercial purposes" in the definition of recycling. These products would include used industrial and automotive parts, such as valves, gaskets, carburetors, distributors, etc., which are remanufactured and used again. However, these processes are inconsistent with the Senate Report language requiring recycling equipment (other than conversion equipment) to recover raw materials. *See,* Senate Report at 82.

Paragraph (g)(2) elaborates on the general rule for recovery equipment. The second sentence contains a cut-off point for recovery equipment. In general, the first part of the cut-off (paragraph (g)(2)(iii)(A)) is based on a limitation in the Senate Report. *See,* Senate Report at 83. The second part of the cutoff (paragraph (g)(2)(iii)(B)) is the statutory marketable product limitation (section 48(l)(6)(B)(i)). The proposed regulation elaborates upon the marketable product limitation to indicate that, if the process continues beyond the point at which a marketable product has been produced, qualifying equipment is nevertheless cut off at the marketable product point. If the rule were otherwise, a taxpayer could qualify equipment well beyond the marketable product point entirely at his own discretion. Moreover, the statute says "market*able*", not "market*ed*". This type of distinction is common in tax terminology and is generally well understood.

Paragraph (g)(5) defines solid waste. The term "solid waste" appears in section 103(b)(4)(E), and a regulation interpreting this term has been outstanding since 1972. However, rigid adherence to the section 103 definition would clearly thwart the Congressional intent expressed in the Senate Report. The section 103 regulation excludes from the definition of solid waste any substance that may be sold (*i.e.,* for value) to an unrelated third party. If this rule were followed in section 48(l), virtually none of the items identified in the Senate Report, such as scrap aluminum, paper, and fibers, would qualify since all of these items have a market value at least equal to the price a recycler would pay for the material. Thus, Congress could not have meant "solid waste" for purposes of section 48(l) to mean the same thing as "solid waste" for purposes of section 103.

The proposed regulation defines solid waste by beginning with the section 103 definition (by cross reference), and then modifying it to arrive at the section 48(l) meaning. The first modification (paragraph (g)(5)(i)(A)) is necessary because the use of the date of issue of the obligations in the section 103 definition is inappropriate for the investment credit which focuses on the date property is placed in service. The second modification (paragraph (f)(5)(i)(B)) indicates that if the market value of material is attributable only to its recycling use the material is not considered to have a market value. This change should preserve much of the legislative intent. The third modification (paragraph (g)(5)(ii)) indicates that the definition of solid waste also includes the statutory rule (section 48(l)(6)(C)) that permits recycling of not more than 10 percent virgin material during a taxable year.

There were suggestions that "solid" includes "liquid". The suggestions were not persuasive. However, gases and liquids are included in the 10 percent virgin material rule.

The parenthetical about the "start up" year in paragraph (g)(5)(ii) was included in response to a suggestion regarding a grace period during which large amounts of virgin materials could be used. The statute does not suggest anything other than a uniform test. It seemed very difficult to justify a rule which provided different tests for different time periods absent some express authorization.

Shale Oil Equipment

The proposed regulation follows pages 83 and 84 of the Senate Report. Thus, the proposed regulation excludes mining activities except with respect to *in situ* processing.

Existing

The first two rules of paragraph (l)(1) are derived from the statute. Modification equipment is treated as a facility in accordance with the House Report. *See,* House Report at 108.

Property that is specially defined energy property is limited to installations in connection with processes existing as of a certain date. Paragraph (d)(2) explains what process changes result in a different process. The proposed regulation focuses on

whether capitalizable expenditures have been incurred in connection with modifying the process. Under this rule, most insignificant modifications would not result in a new process. The purpose of paragraph (e)(2) is to provide a readily administrable and understandable rule that bears a sufficient, if not perfect, relationship to the common understanding of a change of process.

Standards of Quality and Performance

Paragraph (m) describes the statutory provision for standards of quality and performance. The proposed regulation indicates that standards will not affect property for which there is a binding contract prior to the issuance of the standards. At the time of publication of the proposed regulation, no standards were in effect.

Public Utility Property

Paragraph (n)(2) points out that public utility property is excluded from the cagetory of specially defined energy property. This exclusion is not based on section 48 (l)(3)(B), but rather on the requirement in section 46 (l)(5) that specially defined energy property is, by its terms, limited to industrial (including agricultural) and commercial facilities. Moreover, the limitation in the Senate bill included utility use as one of the qualifying uses. However, that reference was dropped in the Conference. *Compare* section 44F(b)(2) as would have been added to the Internal Revenue Code by H.R. 5263, 95th Cong. 1st Sess. § 1031(a) (1977) (as passed by the Senate) *with* IRC section 48(l)(5).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Richard L. Mull of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.47–1 is amended as follows:

1. Paragraph (a)(1)(i) is amended by adding at the end thereof "For rules applicable to energy property, see paragraph (h) of this section."

2. A new paragraph (H) is added to read as set forth below:

§ 1.47–1 Recomputation of credit allowed by section 38.

* * * * *

(h) *Special rules for energy property*—(1) *In general.* A recapture determination is required for the investment credit attributable to the energy percentage (energy credit) if property is (i) disposed of or (ii) otherwise ceases to be energy property (as defined in section 48(l)) with regard to the taxpayer before the end of its estimated useful life.

(2) *Dispositions.* The term "disposition" is described in § 1.47–2(a)(1). A transfer of enery property that is a "disposition" requiring a recapture determination for the investment credit attributable to the regular percentage (regular credit) and the ESOP percentage (ESOP credit) will also be a "disposition" requiring a recapture determination for the energy credit.

(3) *Cessation.* The term "cessation" is described in § 1.47–2(a)(2). For energy property, a cessation occurs during a taxable year if, by reason of a change in use or otherwise, the property would not have qualified for an energy credit if placed in service during that year. A change in use will not require a recapture determination for the regular or ESOP credit unless, by reason of the change, the property would not have qualified for the regular or ESOP credit if placed in service during that year.

(4) *Recordkeeping requirement.* For recordkeeping requirements with respect to dispositions or cessations, the rules of paragraph (e)(1) of this section apply. For example, the taxpayer must maintain records for each recycling facility indicating the percentage of virgin materials used each year. See, § 1.48–9(g)(5)(ii).

(5) *Examples.* The following examples illustrate this paragraph (h).

Example (1). (a) In 1980, corporation X, a calendar year taxpayer, acquires and places in service a computer that will perform solely energy conserving functions in connection with an existing industrial process. Assume the computer has a 7-year useful life and qualifies for both the regular and energy credits. In 1981, a change is made in the industrial process (within the meaning of § 1.48–9(l)(2)). However, for 1981 the computer continues to perform solely energy conserving functions. In 1982, the computer ceases to perform energy conserving functions and begins to perform a production related function.

(b) For 1981, a recapture determination is not required. For 1982, the entire energy credit must be recaptured, although none of the regular credit is recaptured.

Example (2). Assume the same facts and conclusion as in example (1). Assume further that X sells the computer in 1985. A recapture determination is required for the regular credit.

Example (3). In 1981, corporation Y, a calendar year taxpayer, acquires and places in service recycling equipment. Assume the equipment has a 7-year useful life and qualifies for both the regular credit and energy credit. During the course of 1982, more than 10 percent of the material recycled is virgin material. The energy credit is recaptured in its entirety, although none of the regular credit is recaptured. See § 1.48–9(g)(5)(B)(ii).

Example (4). In 1980, corporation Z, a calendar year taxpayer, acquires and places in service a boiler the primary fuel for which is an alternate substance. The boiler has a 7-year useful life. Assume the boiler is a structural component of a building within the meaning of § 1.48–1(e)(2). Assume further that the boiler is not a part of a qualified rehabilitated building (as defined in section 48(g)(1)) or a single purpose agricultural or horticultural structure (as defined in section 48(p)). Z is allowed only an energy credit since the boiler is a structural component of a building. In 1984, Z modifies the boiler to use oil as the primary fuel. A recapture determination is required for the energy credit. See § 1.48–9(c)(3).

Par. 2. A new § 1.48–9 is added to read as set forth below:

§ 1.48–9 Definition of energy property.

(a) *General rule*—(1) *In general.* Under section 48(l)(2), energy property means property that is described in at least one of 6 categories of energy property and that meets the other requirements of this section. If property is described in more than one of these categories, or is described more than once in a single category, only a single energy investment credit is allowed. In that case, the energy investment credit will be allowed under the category the taxpayer chooses by indicating the chosen category on Form 3468, Schedule B. The 6 categories of energy property are:

(i) alternative energy property,

(ii) solar or wind energy property,

(iii) specially defined energy property,

(iv) recycling equipment,

(v) shale oil equipment, and

(vi) equipment for producing natural gas from geopressured brine.

(2) *Depreciable property with 3-year useful life.* Property is not energy property unless depreciation (or amortization is lieu of depreciation) is allowable and the property has an estimated useful life (determined at the time when the property is placed in service) of 3 years or more.

(3) *Effective date rules.* To be energy property—

(i) If property is constructed, reconstructed, or erected by the taxpayer, the construction, reconstruction, or erection must be completed after September 30, 1978, or

(ii) If the property is acquired, the original use of the property must (A) commence with the taxpayer and (B) commence after September 30, 1978, and before January 1, 1983.

For transitional rules, see section 48(m).

(4) *Cross references.* (i) To determine if depreciation (or amortization in lieu of depreciation) is allowable for property, see § 1.48–1(b).

(ii) For the meaning of "estimated useful life", see § 1.46–3(e)(7).

(iii) The meaning of "acquired", "original use", "construction", "reconstruction", and "erection" is determined under the principles of § 1.48–2(b).

(iv) For the definition of energy investment credit (energy credit), see section 48(o)(2).

(v) For special rules relating to public utility property, see paragraph (n) of this section.

(b) *Relationship to section 38 property*—(1) *In general.* (i) Energy property is treated under section 48(l)(1) as meeting the general requirements for section 38 property set forth in section 48(a)(1). For example, structural components of a building may qualify for the energy credit. In addition, the exclusion from section 38 property under section 48(a)(3) (lodging limitation) does not apply to energy property. For purposes of the energy credit, energy property is treated as section 38 property solely by reason of section 48(l)(1). For example, if property ceases to be energy property, it ceases to be section 38 property for all purposes relating to the energy credit and, thus, is subject to recapture under section 47. See § 1.47–1(h).

(ii) See the effective date rules under paragraph (a)(3) of this section for limitations on the eligibility of property as energy property.

(iii) Section 48(l)(1) does not affect the character of property under sections of the Code outside the investment credit provisions. For example, structural components of a building that are treated as section 38 property under section 48(l)(1) remain section 1250 property and are not section 1245 property.

(2) *Other section 48 rules apply.* (i) In general, section 48(a) otherwise applies in determining if energy property is section 38 property. Thus, energy property excluded from the definition of section 38 property under section 48(a) (except by reason of section 48(a)(1) or (a)(3)) is not eligible for the energy credit. For example, energy property used predominantly outside the United States (section 48(a)(2)) or used by tax exempt organizations (section 48(a)(4)), in general, is not treated as section 38 property for any purpose and, thus, is not eligible for the energy credit.

(ii) Other rules of section 48, such as those for leased property under section 48(d), also apply to energy property.

(3) *Regular credit denied for certain energy property.* In computing the amount of credit under section 46(a)(2), the regular percentage does not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. See section 46(a)(2)(D). For example, energy property used for lodging (section 48(a)(3)) and, in general, structural components of a building (section 48(a)(1)(B)) are not eligible for the regular credit even though they may be eligible for the energy credit. However, a structural component of a qualified rehabilitated building (as defined in section 48(g)(1)) or a single purpose agricultural or horticultural structure (as defined in section 48(p)) may qualify for the regular credit without regard to section 48(l)(1).

(c) *Alternative energy property*—(1) *In general.* Alternative energy property means property described in paragraph (c) (3) through (10) of this section. In general, alternate energy property includes certain property that uses an alternative substance as a fuel or feedstock or converts an alternate substance to a synthetic fuel and certain associated equipment.

(2) *Alternate substance.* (i) An alternate substance is any substance or combination of substances other than an oil or gas substance. Alternate substances include coal, wood, and agricultural, industrial, and municipal wastes or by-products. Alternate substances do not include synthetic fuels or other products that are produced from an alternate substance and that have undergone a chemical change in production. For example, methane produced from landfills is not an alternate substance; rather it is a synthetic fuel produced from an alternate substance. However, preparing an alternate substance for use as a fuel or feedstock or for conversion into a fuel does not create a new product if no chemical change occurs. For example, pelletizing, drying, compacting, and liquefying do not result in a new product if no chemical change occurs.

(ii) The term "oil or gas substance" means—

(A) oil or gas and

(B) any primary product of oil or gas.

(iii) For the definition of primary product of oil or gas, see § 1.993–3 (g)(3)(i) and (ii) and (iii). Thus, petrochemicals are not primary products of oil or gas.

(3) *Boiler.* (i) A boiler that uses an alternate substance as its primary fuel is alternative energy property.

(ii) A boiler is a device for producing steam from water. Boilers, in general, have a burner in which fuel is burned. Heat released by combustion is transferred subsequently through metal walls to generate steam of a positive pressure within the boiler vessel. A boiler includes a fire box, boiler tubes, the containment shell, feedwater pumps, pressure and operating controls, and safety equipment, but not pollution control equipment (as defined in paragraph (c)(8) of this section).

(iii) A "primary fuel" is a fuel comprising more than 50 percent of the fuel requirement of an item of equipment during a taxable year, measured in terms of Btu's. Electricity is not a fuel. For example, electric boilers do not qualify as alternative energy property even if the electricity is derived from an alternate substance.

(4) *Burners.* (i) A burner for a combustor (other than a boiler) is alternative energy property if the burner uses an alternate substance as its primary fuel (as defined in paragraph (c)(3)(iii) of this section).

(ii) A burner is the part of a combustor that produces a flame. A combustor is a process heater which includes ovens, kilns, and furnaces.

(iii) A burner includes equipment, such as conveyors,located at the site of the burner and necessary to bring the alternate substance to the burner.

(5) *Synthetic fuel production equipment.* (i) Equipment (synthetic fuel equipment) that converts an alternate substance into a synthetic solid, liquid, or gaseous fuel (other than coke or coke gas) is alternative energy property. Synthetic fuel production equipment does not include equipment, such as an oxygen plant, that is not directly involved in the treatment of an alternate substance, but produces a substance that is, like the alternate substance, a basic feedstock or catalyst used in the conversion process. Equipment is not eligible if it is used beyond the point at which a substance usable as a fuel has

been produced. Equipment is eligible only to the extent of the equipment's cost or basis allocable to the annual production of substances used as a fuel or used in the production of a fuel. For example, assume for the taxable year that 50 percent of the output of equipment is used to produce alcohol for production of whiskey and 50 percent is used to produce alcohol for use in a fuel mixture, such as gasohol. The alcohol production equipment qualifies as synthetic fuel equipment but only to the extent of one-half of its cost or basis. If, in a later taxable year, the equipment is used exclusively to produce whiskey, all of the equipment ceases to be synthetic fuel equipment.

(ii) A fuel is a material that produces usable heat upon combustion. To be "synthetic", the fuel must differ significantly in chemical composition, as opposed to physical composition, from the alternate substance used to produce it. Examples of synthetic fuels include alcohol derived from coal, peat, and vegetative matter, such as wood and corn, and methane from landfills.

(iii) Synthetic fuel equipment includes coal gasification equipment, coal liquefaction equipment, and equipment that converts biomass to a synthetic fuel.

(iv) Synthetic fuel equipment does not include equipment that merely mixes an alternate substance with another substance. For example, synthetic fuel equipment includes neither equipment that mixes coal and water to produce a slurry nor equipment that mixes alcohol and gasoline to produce gasohol. Equipment used to produce coke or coke gas, such as coke ovens, is also ineligible.

(6) *Modification equipment.* (i) Alternative energy property includes equipment (modification equipment) designed to modify existing equipment. For the definition of "existing," see paragraph (l)(1)(i) of this section. To be eligible, the modification must result in a substitution for the entire taxable year of the items in paragraph (c)(6)(ii) (A) or (B) of this section for all or a portion of the oil or gas substance used as a fuel or feedstock. As a result of the modification, the substituted alternate substance must comprise at least 25 percent of the fuel or feedstock (determined on the basis of Btu equivalency). If the modification also increases the capacity of the equipment, only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies.

(ii) The substitutes for an oil or gas substance are—

(A) An alternate substance or

(B) A mixture of oil and an alternate substance.

(iii) Modification equipment does not include replacements of a boiler or burner. If the boiler or burner is replaced, the items must be described in paragraph (c)(3) or (4) of this section to qualify as alternative energy property Modification may include, however, replacements of components of a boiler or burner, such as a heat exchanger.

(iv) The following examples illustrate this paragraph (c)(6).

Example (1). On January 1, 1980, corporation X is using oil to fuel its boiler. On June 1, 1980, X modifies the boiler to permit substitution of a coal and oil mixture for 40 percent of X's oil fuel needs. The mixture consists 75 percent of oil and 25 percent of coal. The equipment modifying the boiler does not qualify as modification equipment because the alternate substance comprises only 10 percent of the fuel.

Example (2). Assume the same facts as in example (1) except 75 percent of the mixture is coal. The equipment modifying the boiler qualifies.

Example (3). Assume the same facts as in example (2) except, instead of substituting an oil and coal mixture for 40 percent of X's oil fuel needs, X uses the modification to expand the boiler's fuel capacity by 40 percent using the mixture as additional fuel. The additional fuel mixture comprises only 28 percent of X's total fuel needs. Thus, even though 75 percent of the additional fuel mixture is an alternate substance, the boiler does not qualify as modification equipment because the alternate substance comprises only 21 percent of the total fuel.

(7) *Equipment using coal as feedstock.* Equipment that uses coal (including lignite) to produce a feedstock for the manufacture of chemicals, such as petrochemicals, or other products is alternative energy property. Equipment is not eligible if it is not directly involved in the treatment of coal or a coal product, but produces a substance that is, like coal, a basic feedstock or catalyst used in the coal conversion process. Equipment is not eligible if it is used beyond the point at which the first product usable as a feedstock has been produced. Equipment used to produce coke or coke gas, such as coke ovens, is ineligible.

(8) *Pollution control equipment.* (i) Pollution control equipment is alternative energy property. Eligible equipment is limited to property or equipment described in § 1.103–8(g)(2)(ii). If control of pollution is not the only significant purpose (within the meaning of § 1.103–8(g)(2) (iii) and (v)), only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies. References in this subdivision (i) to § 1.103–g(2) are those appearing in 26 CFR § 1.103–8(g)(2) (Rev. as of April 1, 1979). However, if a Treasury decision changes § 1.103–8(g)(2) and, thus, the rules reflected in this subdivision (i), the rules as changed will apply as of the effective date of the Treasury decision.

(ii) To be eligible, the equipment must be required by a Federal, State, or local government regulation to be installed on, or used in connection with, eligible alternative energy property (as defined in paragraph (c)(8)(v) of this section).

(iii) Under section 48 (l)(3)(D), equipment is not eligible if required by a Federal, State, or local government regulation in effect on October 1, 1978, to be installed on, or in connection with, property using coal (including lignite) as of October 1, 1978.

(iv) Under this subparagraph (8), pollution control equipment is required by regulation if it would be necessary to install the equipment to satisfy the requirements of any applicable law, including nuisance law. The pollution control equipment need not be specifically identified in the applicable law. If several different types of equipment may be used to comply with the applicable law, each type of equipment is considered necessary to satisfy the requirements of the law. An order permitting a taxpayer to delay compliance with any applicable law is disregarded.

(v) Under this subparagraph (8), "eligible alternative energy property" is energy property (as defined in section 48 (*l*)(2)) described in paragraph (c)(3) through (7) of this seciton. If equipment otherwise qualifying as pollution control equipment is installed on, or used in connection with, both eligible alternative energy property and property other than eligible alternative energy property, only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies.

(vi) *Examples.* The following examples illustrate this subparagraph (8). Assume that the property or equipment in the examples are described in § 1.103–8(g)(2)(ii) and that their only purpose is control of pollution.

Example (1). On October 1, 1978, corporation X acquires and places in service in State A a paper mill. The facility includes a boiler the primary fuel for which is wood chips. The facility includes equipment necessary to comply with pollution control standards in effect on October 1, 1978, in State A. This equipment qualifies as pollution control equipment.

Example (2). On October 1, 1978, corporation Y was bring coal at its facility in State B. The emissions from the facility exceeded State air pollution control requirements in effect on October 1, 1978. On January 1, 1979, X installed cyclone separators to comply with the State pollution

control requirements. The cyclone separators do not qualify as pollution control equipment.

Example (3). Assume the same facts as in example (2) except that Y installs a baghouse instead of cyclone separators to meet more stringent standards that take effect on December 31, 1978. The baghouse qualifies as pollution control equipment because the baghouse was not necessary to meet the standards in effect on October 1, 1978.

Example (4). On October 1, 1978, corporation Z is burning coal at its facility in State C. The emissions from that facility exceed State air pollution control standards in effect on October 1, 1978. C orders Z to install cyclone separators before January 1, 1979. However, C allows Z to operate its facility until January 1, 1979, under less stringent interim standards applicable only to Z. The separators do not qualify as pollution control equipment. The delayed compliance order is disregarded.

(9) *Handling and preparation equipment.* (i) Alternative energy property includes equipment (handling and preparation equipment) used for unloading, transfer, storage, reclaiming from storage, or preparation of an alternate substance for use in eligible alternative energy property (as defined in paragraph (c)(9)(ii) of this section). Handling and preparation equipment must be located at the site the alternate substance is used as a fuel or feedstock. For example, equipment used to screen and prepare coal for use at a power plant qualifies if located at the plant. However, similar equipment located at the coal mine would not qualify.

(ii) Under this subparagraph (8), "eligible alternative energy propery" is energy property (as defined in section 48 (*l*) (2)) described in paragraph (c)(3) through (8) of this section. If equipment otherwise qualifying as handling and preparation equipment is installed on, or used in connection with, property other than eligible alternative energy property, only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies.

(iii) The term "preparation" includes washing, crushing, drying, compacting, and weighing of an alternate substance. Handling and preparation equipment also includes equipment for shredding, chopping, pulverizing, or screening agricultural or forestry byproducts at the site of use.

(iv) Handling and preparation equipment does not include equipment, such as coal slurry pipelines and railroad cars, that transports a fuel or a feedstock to the site of its use.

(10) *Geothermal equipment.* (i) Alternative energy property includes equipment (geothermal equipment) that produces, distributes, or uses energy derived from a geothermal deposit (as defined in proposed § 1.44–2(h)).

(ii) In general, production equipment includes well-head equipment necessary to bring geothermal energy from the subterranean deposit to the surface. Production does not include exploration and development.

(iii) Distribution equipment includes equipment that transports geothermal steam or hot water from a geothermal deposit to the site of ultimate use. If geothermal energy is used to generate electricity, distribution equipment includes equipment that transports hot water from the geothermal deposit to a power plant. Distribution equipment also includes components of a heating system, such as pipes and ductwork, that distribute within a building the energy derived from the geothermal deposit.

(iv) Equipment that uses energy derived from a geothermal deposit is eligible only if specially adapted to use geothermal energy. For example, radiators, fan-coil units, and baseboard heaters are not eligible if without significant modification they could be used with hot water from sources other than a geothermal deposit. Also, geothermal equipment does not include equipment that uses energy derived both from a geothermal deposit and from sources other than a geothermal deposit. If geothermal energy is used to generate electricity, use equipment includes the electrical generating equipment, such as turbines and generators. However, geothermal equipment does not include any electrical transmission equipment, such as transmission lines and towers, or any equipment beyond the electrical transmission stage, such as transformers and distribution lines.

(d) *Solar energy property*—(1) *In general.* Energy property includes solar energy property. The term "solar energy property" includes equipment and materials (and parts solely related to the functioning of such equipment) that use solar energy directly to (i) generate electricity, (ii) heat or cool a building or structure, or (iii) provide hot water for use within a building or structure. Generally, these functions are accomplished through the use of equipment such as collectors (to absorb sunlight and create hot liquids or air), storage tanks (to store hot liquids), rockbeds (to store hot air), thermostats (to activate pumps or fans which circulate the hot liquids or air), and heat exchangers (to utilize hot liquids or air to create hot air or water). Property that uses, as an energy source, fuel or energy derived indirectly from solar energy, such as ocean thermal energy, fossil fuel, or wood, is not considered solar energy property.

(2) *Passive solar excluded.* (i) Solar energy property excludes the materials and components of "passive solar systems," even if combined with "active solar systems."

(ii) An active solar system is based on the use of mechanically forced energy transfer, such as the use of fans or pumps to circulate solar generated energy.

(iii) A passive system is based on the use of conductive, convective, or radiant energy transfer. Passive solar property includes greenhouses, solariums, roof ponds, glazing, and mass or water trombe walls.

(3) *Electric generation equipment.* Solar energy property includes equipment that uses solar energy to generate electricity. In general, this process involves the transformation of sunlight into electricity through the use of such devices as solar cells or other collectors. Solar energy property does not include equipment that transmits or uses electricity derived from solar energy.

(4) *Pipes and ducts.* Pipes and ducts are solar energy property if used exclusively to carry energy derived from solar energy.

(5) *Specially adapted equipment.* Equipment that uses solar energy beyond the distribution stage is eligible only if specially adapted to use solar energy. For examples of items excluded under a similar limitation, see the second sentence of paragraph (c) (10) (iv) of this section.

(6) *Auxiliary equipment.* Solar energy property does not include equipment (auxiliary equipment), such as furnaces and hot water heaters, that use a source of power other than solar or wind energy to provide usable energy. Solar energy property also does not include equipment, such as ducts and hot water tanks, whether utilized solely by auxiliary equipment or by both auxiliary equipment and solar energy equipment.

(7) *Solar process heat equipment.* Solar energy property does not include equipment that uses solar energy to generate steam at high temperatures for use in industrial or commercial processes (solar process heat).

(8) *Example.* The following example illustrates this paragraph (d).

Example. (a). In 1979, corporation X constructs an apartment building and purchases equipment to convert solar energy into heat for the building. Corporation X also installs an oil-fired water heater and other equipment to provide a backup source of heat when the solar energy equipment cannot meet the energy needs of the building.

(b) The items purchased in addition to the water heater include a roof solar collector, a heat exchanger, a hot water tank, a control

component, pumps, pipes, fan-coil units, and valves. Assume the fan-coil units could be used with energy derived from an oil or gas substance without significant modification. All items are depreciable and have a useful life of three years or more. The use of the equipment to heat the building is the first use to which the equipment has been put.

(c) Water is pumped from the basement throught pipes to the roof solar collector. Heated water returns through pipes to a heat exchanger which transfers heat to the water in the hot water tank.

(d) The hot water tank and the oil-fired water heater utilize the same distribution pipe. Pumps and valves at the points of connection between the hot water tank, the oil-fired water heater, and the distribution pipe regulate the auxiliary energy supply use. They also prevent the oil-fired water heater from heating water in the hot water tank.

(e) An integrated control component determines whether hot water from the hot water tank or from the oil-fired water heater is distributed to fan-coil units located throughout the building.

(f) The roof solar collector is solar energy property. The pump that moves hot water to the roof collector and the pipes between the roof collector and the hot water tank qualify because they are solely related to transporting solar heated water. The hot water tank qualifies because it stores water heated solely by solar radiation. The heat exchanger also qualifies.

(g) The oil-fired water heater does not qualify as solar energy property because it *is* auxiliary equipment.

(h) The distribution pipe, the control component, and the pumps and valves do not qualify because they serve the oil-fired water heater as well as the solar energy equipment. All of these items would qualify if used solely in connection with solar energy equipment. The fan-coil units do not qualify because they are not specially adapted to used energy derived from solar energy.

(e) *Wind energy property*—(1) *In general.* Energy property includes wind energy property. Wind energy property is equipment (and parts solely related to the functioning of that equipment) that performs a function described in paragraph (e)(2) of this section. In general, wind energy property consists of a windmill, wind-driven generator, storage devices, power conditioning equipment, and parts solely related to the functioning of those items. Wind energy property does not include items similar to the ones set forth in the last sentence of paragraph (d)(3) of this section and in paragraph (d)(5) and (6) of this section.

(2) *Eligible functions.* Wind energy property is limited to equipment (and parts related solely to the functioning of that equipment) that—

(i) Uses wind energy to heat or cool, or provide hot water for use in, a building or structure, or

(ii) Uses wind energy to generate electricity (but not mechanical forms of energy).

(f) *Specially defined energy property*— (1) *In general.* Specially defined energy property means only those items described in paragraph (f)(4) through (14) of this section that meet the requirements of paragraph (f)(2) of this section.

(2) *General requirements.* To be eligible, each item described in paragraph (f)(4) through (14) of this section must be installed in connection with an existing industrial or commercial facility. In addition, the principal purpose of each of those items must be reduction of energy consumed or heat wasted in any existing industrial or commercial process. See section 48(l)(10) and paragraph (l) of this section. If an item performs more than one function, only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies.

(3) *Industrial or commercial process.* (i) A process is a means or method of producing a desired result by chemical, physical, or mechanical action. For example, equipment installed in connection with retail sales, general office use, and residential use are not used in a process within the meaning of this paragraph (f)(3).

(ii) An industrial process includes agricultural processes and thermal processes relating to production or manufacture, such as those involving boilers and furnaces.

(iii) A commercial process includes laundering and food preparation.

(iv) The following example illustrates this paragraph (f)(3).

Example. Corporation X, an advertising agency, acquires an automatic energy control system designed to reduce energy consumed by heating and cooling its office building. Although the use of an office for X's business is a commercial activity, general office use is not a process. The automatic energy control system does not qualify because it does not reduce energy consumed in an industrial or commercial process.

(4) *Recuperators.* Recuperators recover energy, usually in the form of waste heat from combustion exhaust gases, that is used to heat incoming combustion air. Recuperators are configurations of equipment consisting in part of fixed heat transfer surfaces between two gas flows, and include related baffles, dividers, entrance flanges, transition sections, and shells or cases enclosing the other components of the recuperator. In general, a fixed heat transfer surface absorbs heat from a gas or liquid flow or dissipates heat to the gas or liquid flow.

(5) *Heat wheels.* Heat wheels recover energy, usually in the form of waste heat, from exhaust gases to preheat incoming gases. Heat wheels are items of equipment consisting in part of regenerators (which rotate between two gas flows) and related drive components, wiper seals, entrance flanges, and transition sections.

(6) *Regenerators.* Regenerators are devices, such as clinker columns, that recover energy by efficiently storing heat while exposed to high temperature gases and releasing heat while exposed to low temperature gases.

(7) *Heat exchangers.* Heat exchangers recover energy, usually in the form of waste heat, from high temperature fluids for transfer to low temperature fluids. Heat exchangers consist in part of fixed heat transfer surfaces (described in paragraph (f)(4) of this section) separating two fluids.

(8) *Waste heat boilers.* Waste heat boilers use waste heat, usually in the form of combustion exhaust gases, as the primary source of energy. A primary source of energy is one that comprises more than 50 percent of the energy requirement.

(9) *Heat pipes.* Heat pipes recover energy, usually in the form of waste heat, from high temperature fluids to heat low temperature fluids. A heat pipe consists in part of sealed heat transfer chambers and a capillary structure. In general, the heat transfer chambers alternatively vaporize and condense a working fluid as it passes from one end of the chamber to the other.

(10) *Automatic energy control systems.* Automatic energy control systems automatically reduce energy consumed in an industrial or commercial process for such purposes as environmental space conditioning (*i.e.*, lighting, heating, cooling or ventilating, etc.). Automatic energy control systems include, for example, automatic equipment settings controls, load shedding devices, and relay devices used as part of such system. Property such as computer hardware installed as a part of the energy control system also qualifies, but only to the extent of its incremental cost (as defined in paragraph (k) of this section).

(11) *Turbulators.* Turbulators increase the rate of transfer of heat from combustion gases to the surfaces of a boiler firetube. A turbulator is a baffle placed in the upper passes of the firetubes of a boiler to reduce the rate of heat transfer from combustion exhaust gases to the firetube surface.

(12) *Preheaters.* Preheaters recover energy, usually in the form of waste heat from either combustion exhaust gases or steam, to preheat incoming combustion

air or boiler feedwater. A preheater consists in part of fixed heat transfer surfaces (described in paragraph (f)(4) of this section) separating two fluids. A preheater also consists of related equipment, such as fans, pumps, ductwork, and piping.

(13) *Combustible gas recovery systems.* Combustible gas recovery systems are items of equipment used to recover unburned fuel from combustion exhaust gases.

(14) *Economizers.* Economizers are configurations of equipment used to recover energy from combustion exhaust gases to preheat boiler feedwater.

(15) *Other property added by the Secretary.* [Reserved]

(g) *Recycling equipment*—(1) *In general.* Recycling equipment is equipment used exclusively to sort and prepare, or recycle, solid waste to recover usable raw materials ("recovery equipment"), or to convert solid waste into fuel or other useful forms of energy ("conversion equipment"). Recycling equipment may include certain other onsite related equipment.

(2) *Recovery equipment.* Recovery equipment includes equipment that—

(i) separates solid waste from a mixture of waste,

(ii) applies a thermal, mechanical, or chemical treatment to solid waste to ensure the waste will properly respond to recycling, or

(iii) recycles solid waste to recover usable raw materials, but not beyond occurrence of the first of the following:

(A) The point at which a material has been created that can be used in beginning the fabrication of an end-product in the same way as materials from a virgin substance. Examples are the fiber stage in textile recycling, the newsprint or paperboard stage in paper recycling, and the ingot stage for other metals (other than iron and steel). Also, in the case of recycling iron or steel, recycling equipment does not include any equipment used to reduce solid waste to a molten state or any process thereafter.

(B) The point at which the material is a marketable product (*i.e.,* has a value other than for recycling) even if the material is not marketed by the taxpayer at that point.

(3) *Conversion equipment.* Conversion equipment includes equipment that converts solid waste into a fuel or other usable energy, but not beyond the point at which a fuel, steam, electricity, hot water, or other useful form of energy has been created. Thus, combustors, boilers, and similar equipment may be eligible if used for a conversion process, but steam and heat distribution systems between the combustor or boiler and the point of use are not eligible.

(4) *On-site related equipment.* Recycling equipment also includes on-site loading and transportation equipment, such as conveyors, integrally related to other recycling equipment. This equipment may include equipment to load solid waste into a sorting or preparation machine and also a conveyor belt system that transports solid waste from preparation equipment to other equipment in the recycling process.

(5) *Solid waste.* (i) The term "solid waste" has the same meaning as in § 1.103–8(f)(2)(ii)(*b*), subject to the following exceptions and the other rules of this subparagraph (5):

(A) The date the equipment is placed in service is substituted in the first sentence of § 1.103–8(f)(2)(ii)(*b*) for the date of issue of the obligations, and

(B) Material that has a market value at the place it is located only by reason of its value for recycling is not considered to have a market value.

(ii) Solid waste may include a nominal amount of virgin materials, liquids, or gases, not to exceed 10 percent. If more than 10 percent of the material recycled during the course of any taxable year (including the "start up" year) consists of virgin material, liquids, or gases, the equipment ceases to be energy property and is subject to recapture under section 47. The determination of the portion of virgin material, liquids, or gases used is based on volume, weight, or Btu's, whichever is appropriate.

(6) *Ineligible equipment.* Transportation equipment, such as trucks, that transfer solid waste between geographically separated sites (*e.g.,* the collection point and the recycling point) is not eligible. Steam and heat distribution systems are also ineligible.

(7) *Increased recycling capacity.* If the equipment performs a function other than increasing recycling capacity at a particular site, only the incremental cost (as defined in paragraph (k) of this section) of the equipment qualifies. Recycling capacity is determined by the ability to produce a product not previously produced by the taxpayer, or more of an existing product, in a way that does not lower overall production.

(8) *Examples.* the following examples illustrate this paragraph (g).

Example (1) Corporation W recycles aluminum scrap metal. W owns a junk yard where it collects and crushes the metal into compact units. W's trucks bring the scrap metal from the junk yard to its main plant located 3 miles away. W's furnace equipment at the main plant reduces the scrap to the molten state and W's rolling equipment rolls the aluminum into sheets. The furnace qualifies, but for two separate reasons the rolling equipment does not qualify. First, the molten aluminum would be a marketable product if reduced to ingots prior to rolling. It is not necessary that W actually reduce the molten aluminum to ingots. Second, the molten aluminum could be used in the same way as virgin material.

Example (2) Corporation X manufactures newspring using wood chips discarded during X's lumber operations. Assume X could sell the wood chips to other companies located a short distance from X's mill for use as a fuel. None of the equipment used to manufacture the newsprint qualifies.

Example (3) Assume the same facts as in example (2) except X uses old newspapers which have no value except for recycling in the area where X's mill is located. The equipment qualifies.

Example (4) Corporation Y recycles municipal waste. Assume the municipal waste is "solid waste" under paragraph (g)(5) of this section. During the first taxable year Y operates the equipment, Y uses 8,500 pounds of municipal waste and 1,500 pounds of virgin material and liquids. No energy credit is allowed for the equipment.

Example (5) Corporation Z owns a waste recovery facility. The corrugated paper portion of the waste stream is picked off a conveyor as it enters the facility. The corrugated paper is baled and sold as a secondary paper product. Z acquires shredding and air-classification equipment. Corrugated paper that is not removed from the conveyor belt enters the new equipment for production as a fuel. Z increases the input of corrugated paper so that the same amount of corrugated paper is removed from the conveyor to be baled. The excess paper that is not removed for baling enters the shredding and air-classification equipment. The new equipment qualifies.

(h) *Shale oil equipment*—(1) *In general.* Shale oil equipment used in either surface or *in situ* processing qualifies as energy property. Shale oil equipment means equipment used exclusively to produce or extract oil from shale rock.

(2) *Eligible processes.* In general, equipment qualifies if used after the mining stage and up through the retorting process. Thus, eligible processes include crushing, loading into the retort, and retorting, but not hydrogenation, refining, or any process subsequent to retorting. However, with respect to *in situ* processing, eligible processes include creating the underground cavity.

(2) *Eligible equipment.* Shale oil equipment includes—

(i) Heading jumbos, bulldozers, and scaling and bolting rigs used to create an underground cavity for *In situ* processing,

(ii) On-site water supply and treatment equipment and handling equipment for shale,

(iii) Crushing and screening plant equipment, such as hoppers, feeders, vibrating screens, and conveyors,

(iv) Briquetting plant equipment, such as hammer mills and vibratory pan feeders, and

(v) Retort equipment.

(i) [Reserved]

(j) *Natural gas from geopressured brine.* Equipment used exclusively to extract natural gas from geopressured brine described in section 613A(b)(3)(C)(i) is energy property. Eligible equipment includes equipment used to separate the gas from saline water and remove other impurities from the gas. Equipment is eligible only up to the point the gas may be introduced into a pipeline.

(k) *Incremental cost.* The term "incremental cost" means the excess of the total cost of equipment over the amount that would have been expended for the equipment if the equipment were not used for a qualifying purpose. For example, assume equipment costing $100 performs a pollution control function and another function. Assuming it would cost $60 solely to perform the nonqualifying function, the incremental cost would be $40.

(l) *Existing*—(1) *In general.* For purposes of section 48(l), the term "existing" means—

(i) When used in connection with a facility or equipment, 50 percent of more of the basis of that facility or equipment is attributable to construction, reconstruction, or erection before October 1, 1978, or

(ii) When used in connection with an industrial or commercial process, that process was carried on in the facility as of October 1, 1978.

(2) *Industrial or commercial process.* (i) A process will be considered the same as the process carried on in the facility as of October 1, 1978, unless and until capitalizable expenditures are paid or incurred for modification of the process. The expenditures need not be capitalized in fact; it is sufficient if the taxpayer has an option or may elect to capitalize. In general, the date of change will be the date the expenditures are properly chargeable to capital account. If the taxpayer properly elects to expense a capitalizable expenditure, the date of change will be the date the expenditure could have been properly chargeable to capital account if the expenditure had been capitalized. Recapture will not occur by reason of a change in a process unless the process change also changes the use of the equipment. See example (1) of § 1.47–1(h)(5).

(m) *Quality and performance standards*—(1) *In general.* Energy property must meet quality and performance standards, if any, that have been prescribed by the Secretary (after consultation with the Secretary of Energy) and are in effect at the time of acquisition.

(2) *Time of acquisition.* Under this paragraph (m) the time of acquisition is—

(i) The date the taxpayer enters into a binding contract to acquire the property or

(ii) For property constructed, reconstructed, or erected by the taxpayer, (A) the earlier of the date it begins construction, reconstruction, or erection of the property, or (B) the date the taxpayer and another person enter into a binding contract requiring each to construct, reconstruct, or erect property and place the property in service for an agreed upon use. See example under paragraph (m) (4) of this section.

(3) *Binding contract.* Under this paragraph (m), a binding contract to construct, reconstruct, or erect property, or to acquire property, is a contract that is binding at all times on the taxpayer under applicable State or local law. A binding contract to construct, reconstruct, or erect property or to acquire property, does not include a contract for preparation of architect's sketches, blueprints, or performance of any other activity not involving the beginning of physical work.

(4) *Example.* The following example illustrates this paragraph (m).

Example. Corporation X owns a junk yard. Corporation Y manufactures recycling equipment and operates several recycling facilities. On January 1, 1979, X and Y enter into a written contract that is binding on both parties on that date and at all times thereafter. Under the contract's terms X will supply scrap metal to Y and Y agrees in return to build a recycling facility on land adjacent to the junk yard. Y will own and operate the facility using the scrap metal supplied by X. Y may treat the agreement as a binding contract under paragraph (m) (2) and (3) of this section.

(n) *Public utility property*—(1) *Inclusions.* Public utility property is included in both of the following categories of energy property:

(i) Shale oil equipment and

(ii) Equipment for producing natural gas from geopressured brine.

(2) *Exclusions.* Public utility property is excluded from each of the following categories of energy property:

(i) Alternative energy property,

(ii) Specially defined energy property,

(iii) Solar or wind energy property, and

(iv) Recycling equipment.

(3) *Public utility property.* The term "public utility property" has the meaning given in section 46(f)(5).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–29046 Filed 9–16–80; 3:41 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1609–3]

Federal Assistance Limitations: State of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to limit certain Federal funding assistance for specific areas in the Commonwealth of Kentucky. These limitations apply to funds provided under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the Surface Transportation Assistance Act, 23 U.S.C. 101 *et seq.* This action is being taken pursuant to Sections 176(a) and 316(b) of the Clean Air Act, 42 U.S.C. 7506(a) and 7616(a), because the Commonwealth of Kentucky has failed to submit or make a reasonable effort to submit a Part D state implementation plan revision that considers each of the elements in Section 172 of the Clean Air Act, 42 U.S.C. 7502.

EPA invites public comment on this action.

DATES: Comments may be submitted up to November 3, 1980.

(The normal 30 day comment period provided under the Section 176(a) procedures has been extended to 45 days because of the controversial nature of this proposed action.)

ADDRESSES: Written comments may be sent to Mr. Tom Lyttle, Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30365.

EPA has established a rulemaking Docket, containing all the information for the proposed rulemaking, which is available for public inspection during normal business hours at EPA Region IV Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Lyttle, Air Programs Branch, EPA Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365, 404/881–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION:

Background

In 1977 Congress amended the Clean Air Act to address the serious health problem posed by the states' failure to attain the National Ambient Air Quality Standards (NAAQS). While extending the deadline for attaining these standards to December 31, 1982, Congress required those states with nonattainment problems to submit by January 1, 1979, a revision to its state implementation plan (SIP) that meets the requirements of Part D of the Clean Air Act, 42 U.S.C. 7501–7508. This Part D SIP revision must be designed to correct the deficiencies in the existing SIP and insure that the new attainment deadlines will be reached. Sections 172(a)(1) and 172(b)(1)–(10), 42 U.S.C. 7502(a)(1) and 7502(b)(1)–(10). In addition, for those areas with serious automobile-related pollution problems caused by ozone (O_3) or carbon monoxide (CO) that can demonstrate that even with the implementation of all reasonably available control measures they could not attain the O_3 or CO standards by the end of 1982, Congress allowed EPA upon request of a state to extend the attainment deadline for O_3 or CO standards up to December 31, 1987. Section 172(a)(2), 42 U.S.C. 7502(a)(2).

In return for this extension for O_3 and CO, Congress required the requesting state to submit additional measures in its 1979 Part D SIP revision. Section 172(b)(11), 42 U.S.C. 7502(b)(11). One such additional measure was a schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program along with certification that the state has legal authority to go forward and implement and enforce that program.* Sections 172(b)(10) and 172(b)(1)(b), 42 U.S.C. 7502(b)(10) and 7502(b)(11)(b).

The basic statutory, regulatory, and policy criteria for EPA's review of the 1979 nonattainment plan have been summarized and discussed in the General Preamble for Proposed Rulemaking on Approval of Plan revisions for Nonattainment Areas (44 FR 20372, April 4, 1979) and its supplements (44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

To insure that Federal funds do not further exacerbate the already serious nonattainment problem and, to encourage state cooperation, Congress provided that in certain stiuations Federal funds that would finance or were related to pollution generating activities such as roads or new sewage treatment works would be withheld unless there was an acceptable SIP in place to deal with the air pollution problem or, at a minimum, unless the state was making reasonable efforts to develop such a plan. Specifically Congress adopted Section 176(a), 42 U.S.C. 7506(a), which provides:

> (a) The Administrator shall not approve any projects or award any grants authorized by this Act and the Secretary of Transportation shall not approve any projects or award any grants under Title 23, United States Code, other than for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance in any air quality control region—
>
> (1) In which any national primary ambient air quality standard has not been attained,
>
> (2) Where transportation control measures are necessary for the attainment of such standard, and
>
> (3) Where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by Section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July, 1982, in the case of an implementation plan revision required under Section 172 to be submitted before July 1, 1982).

On April 10, 1980, after prior notice and public comment, EPA published its final policies and procedures governing imposition of the Section 176(a) funding restrictions, 45 FR 24692. In this notice EPA stated that the geographic applicability of Section 176(a) will be the applicable air quality control region; however, EPA would consider applying the limitations to a smaller area if the purpose of the limitations could thereby be better served. 45 FR 24695. The notice also discussed what adequate consideration of all the required elements in Section 172 would entail, pointing out that the state has an affirmative duty to investigate and compile data on the required elements, analyze that data, and consider and incorporate the required elements into the SIP in a manner consistent with the intent and purposes of the Act. *Id.* With respect to the reasonable effort requirement, the notice states that if a state made a good faith effort, judged on a case-by-case basis, to consider all of the Section 172 elements, then the funding limitations would not be imposed. *Id.*

Finally, the notice outlines the procedures to be followed in imposing the funding limitations under Section 176(a). These include a notice by letter to the state and affected political entities followed by a 30-day negotiating period, followed by a formal notice of proposed rulemaking with a 30-day comment period followed by final action. The policies and procedures for imposing the Section 316 limitation were published on August 11, 1980, 45 FR 53382 and will be followed in taking any action under that Section. In addition, a Section 307(d) type docket will be estalished for the rulemaking. The other administrative procedures provided for under Section 307(d) do not apply to this rulemaking, however, because this is not an action listed or designated by the Administrator under Section 307(d)(1). 42 U.S.C. 7607(d)(1). Normal notice and comment procedures provided for under the Administrative Procedure Act, 5 U.S.C. 551 *et seq* will govern this action.

In addition to Section 176(a), Congress also added Section 316 to the Clean Air Act which allows the Administrator to withhold funds for the construction of sewage treatment works if he determines that a state does not have an approved SIP or that the approved SIP does not provide for the increased emissions resulting directly or indirectly from the operation of that facility. Section 316(b), 42 U.S.C. 7616(b).

Facts

On March 3, 1978, EPA designated Jefferson County, Kentucky (Louisville) and three Kentucky counties, Boone, Kenton, and Campbell, in the Metropolitan Cincinnati Air Quality Control Region as nonattainment for O_3. 40 FR 8962. As part of its SIP, the Commonwealth determined that despite the implementation of all reasonably available control measures these areas would not be able to attain the O_3 standard by the 1982 deadline. Therefore, the Governor requested an attainment date extension until December 31, 1987, and committed to the implementation of an I/M program.

The states generally had to certify the existence of I/M legal authority by July 1, 1979, the date an approved plan was required, *See* 44 FR 20377 (April 4, 1979). Limited extensions to this deadline were available if the state could show that its legislature had not had a reasonable opportunity to timely consider the question of I/M authority. *Id.* The Commonwealth of Kentucky requested such an extension of the deadline for certifying legal authority because the state did not know if it would need an extension of the 1982 attainment date for CO and O_3 and therefore whether it would be required to adopt an I/M program in time for the 1978 legislative session of the General Assembly to consider an I/M bill and because the

*In addition to a schedule a legal authority, the state must also show in its 1979 Part D SIP Revision that it is committed to implement an I/M program, has adequate resources to do so, and that the program once implemented will meet a minimum standard of effectiveness. Sections 172(b) (2), (7) and (10), 42 U.S.C. 7502 (b)(2), (7) and (10).

General Assembly did not meet again to consider general legislation until the 1980 session. On these grounds EPA granted Kentucky's request and conditionally approved the Kentucky Part D SIP. By June 30, 1980, a certification of I/M legal authority was due in order for this approval to remain in effect.

In the 1980 session of the General Assembly the Senate passed an I/M bill, but it was rejected in a House Committee and on April 15, 1980, the Assembly adjourned without passing any I/M legislation. In view of the Legislature's failure to pass I/M authority for the Commonwealth, the Commonwealth and the counties considered a number of alternatives, among them the possibility that the county governments of the affected areas would enact a local ordinance to establish an I/M program. Although EPA has worked closely with the Commonwealth and the counties to develop an acceptable I/M program of their own choice, as of June 2, 1980 only Jefferson County had indicated their intention to move ahead with the program. (Jefferson County announced at that time the intention to adopt a local I/M ordinance, which now has been done.)

On June 2, 1980, the regional Administrator of Region IV sent a letter to the Governor of Kentucky informing him that because of the General Assembly's adjournment in 1980 without passing adequate I/M authority and the lack of progress in submitting other acceptable I/M legal authority, EPA could no longer consider that the Commonwealth was making reasonable efforts to provide legal authority for an I/M program.

Furthermore, he was informed that pursuant to the Section 176(a) policies and procedures outlined by EPA in its April 10, 1980 notice, 45 FR 24692, the Agency was initiating the process to cut off certain Federal funds to the counties of Boone, Kenton, and Campbell by starting the 30-day negotiation period called for under these procedures. During this negotiating period Boone County was able to adopt a local I/M ordinance and this ordinance has been submitted to EPA for review. However, no progress has been made either with the Commonwealth or the remaining two counties. Because of the Commonwealth's failure to submit legal authority for the remaining two counties by the June 30, 1980 deadline, EPA is publishing elsewhere in this issue of the **Federal Register** a disapproval for the O_3 Part D SIP revision for the portion of the Cincinnati nonattainment area consisting of Boone, Kenton, and Campbell Counties, Kentucky, reimposing the moratorium on construction of major sources of those pollutants in these counties. Boone County is included because of EPA's policy (45 FR 31307, May 13, 1980) of applying the moratorium to the entire nonattainment area, even if the SIP requirements were met in a portion of the nonattainment area. EPA is proposing revisions to the policy elsewhere in this issue of the **Federal Register.**

EPA Proposed Findings

For Kenton and Campbell Counties the Commonwealth has failed to submit a Part D SIP revision that includes a certification of I/M legal authority. A Part D SIP revision for Boone County is expected soon. As explained above, Section 172(b)(10) requires such a certification for these counties and lack of such certification means that a critical element of Section 172 has not been considered. Therefore, the agency hereby proposes to find that for these two counties, the Commonwealth of Kentucky has not submitted a Part D SIP revision that considers each of the required elements of Section 172.

Moreover, EPA believes that the Commonwealth is no longer making reasonable effort to submit plans for these two counties that consider each of the Section 172 elements. The Kentucky General Assembly and the counties have had adequate opportunity to consider and adopt the needed I/M legal authority. This fact, plus the continuing health threat posed by the nonattainment problem in the Cincinnati metropolitan area, prompts EPA to propose a finding that the Commonwealth is no longer making reasonable efforts to submit an acceptable Part D SIP revision. This finding will require the imposition of funding limitations under Section 176(a).

Finally, under Section 316(b), funds for sewage treatment facilities may be withheld when, among other things, a state does not have an approved SIP. Since Kentucky does not have approved SIPs for these counties and, again considering the continuing health hazard posed by the nonattainment problem in the Cincinnati metropolitan area, EPA proposes to withhold funds for construction of sewage treatment facilities in Kenton and Campbell Counties.

EPA proposes to limit the effects of the above findings only to Kenton and Campbell Counties. Jefferson and Boone Counties have enacted I/M ordinances on their own, and it is expected that they will soon be submitted to EPA as SIP revisions. Therefore, EPA believes it would be inequitable and inappropriate to propose to restrict Federal funds in these areas.

Responsibility for legal authority for I/M in the Ohio portion of the Cincinnati AQCR lies with the State of Ohio and will be addressed in future **Federal Register** notices.

Effect of Proposed Rulemaking

EPA proposes in this notice to limit certain types of Federal assistance in the counties previously mentioned. If the rulemaking is finalized, the Federal Highway Administration will not approve any projects or award any grants under the Surface Transportation Assistance Act (23 U.S.C. 101 *et seq.*) except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. See the Section 176(a) policy (45 FR 24692) for guidelines for these exemptions. It is estimated that this restriction will affect approximately $34.5 million of funding to the affected areas during Federal government Fiscal Years 1981 and 1982 (FY 81 and 82).

Also potentially affected will be the award of certain air grants authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including Section 105 and Section 175 grants, to local air quality control districts and lead air quality planning agencies. These funds amount to approximately $300,000 in the affected areas during FY 81. Under the Agency's Section 176(a) policies and procedures, however, the Administrator has discretion to continue to award air grants if such awards are necessary for achieving immediate air quality benefits or for SIP development.

Finally, EPA will also withhold grants for the construction of sewage treatment works available under Section 201(g) of the Clean Water Act (33 U.S.C. 1251 *et seq.)* to municipalities, sanitation districts, or other eligible grantee located in the affected counties. The EPA Regional Administrator may fund a specific project if she finds that it is needed for relief of an immediate public health hazard and will not expand useable treatment capacity by more than one million gallons per day. In addition, the EPA Regional Administrator may fund a project which will not expand capacity for future growth. These funding limitations could amount to approximately $1.5 million during FY 81. The only project covered is the rehabilitation of an existing treatment plant and, as such, may be eligible for funding. However, any projects in future years may be subject to these funding limitations.

As previously stated, this notice provides for a 45-day public comment period during which continued negotiation with the Commonwealth is possible. After the close of the comment period and evaluation of public comments, if no resolution is reached, EPA will publish a Notice of Final Rulemaking in the **Federal Register**, imposing the Federal assistance limitations. The limitations would be effective upon publication of the Notice of Final Rulemaking.

In order to remove the limitations on Federal assistance, in the event that they are established, EPA must publish a Notice of Proposed Rulemaking in the **Federal Register** and allow for a 45-day public comment period regarding such action. After evaluation of public comments, if EPA decides to remove the limitations, EPA must publish a Notice of Final Rulemaking which authorizes rescission of the Federal assistance limitations. The limitations, however, would remain in effect until publication of the Notice of Final Rulemaking.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 172, 176(a), 301, and 316 of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7502, 7506(a), 7601(a), and 7616)

Dated: August 19, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-29098 Filed 9-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 125

[FRL 1565-8]

Innovative Technology

AGENCY: U.S. Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Section 301(k) of the Clean Water Act of 1977 (CWA) allows the EPA to grant compliance extensions to any industrial facility subject to a permit under the National Pollutant Discharge Elimination System (NPDES) which installs innovative technology. The innovative technology must have the potential for industry-wide application and either result in significantly greater effluent reduction than Best Available Technology Economically Achievable (BAT) or achieve the same level of effluent reduction as BAT at a significantly lower cost. Section 301(k) authorizes compliance extensions of up to three years (July 1, 1987).

EPA is developing a regulation to implement section 301(k). This notice provides background information and EPA's initial positions on the principal elements of the regulation. EPA solicits comments on all aspects of this regulation, especially those discussed in this notice. In addition, the Agency requests comments on other approaches which might foster the use of innovative technology in industrial wastewater treatment.

DATES: Comments must be received no later than October 20, 1980. Any comments received after that date will be addressed, to the extent practicable, in the proposed regulation and its preamble. Comments will be available for public inspection and copying in the Environmental Protection Agency Headquarters Library, Room 2404, Waterside Mall, 401 M St., S.W., Washington, D.C. 20460.

ADDRESS: Comments should be addressed to: Thomas K. H. Laverty, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-7010.

FOR FURTHER INFORMATION CONTACT: Thomas K. H. Laverty, Permits Division (EN-336), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-7010.

SUPPLEMENTARY INFORMATION:

I. The Statute

The CWA outlines a two-step process by which industrial dischargers are to achieve the national goal of the elimination of the discharge of pollutants into the navigable waters. The first step was meeting effluent limitations attainable by the application of Best Practicable Control Technology Currently Available (BPT) by July 1, 1977 (section 301(b)(1)(A) of the CWA). The second step involves meeting effluent limitations reflecting BAT by July 1, 1984 (section 301(b)(2) of the CWA).

The permits issued to industrial dischargers under NPDES incorporate the appropriate technology-based limitations and contain compliance schedules for achieving those limitations. Section 301(k) provides an industrial facility subject to an NPDES permit with two options for qualifying for a compliance extension from the BAT deadline of July 1, 1984 to no later than July 1, 1987. The first option is the installation of an innovative technology which produces an effluent reduction which is significantly greater than that required by BAT. The second option is the installation of an innovative technology which achieves the same level of effluent reduction as required by BAT with the potential for achieving that reduction at a significantly lower cost than estimated for BAT. In either case, the discharger must demonstrate that the proposed innovative technology has the potential for industry-wide application. The decision to grant a compliance extension will be made by the EPA or by a State with an approved NPDES program in consultation with the EPA.

II. The Program

As part of the NPDES application process a discharger may submit, to the appropriate permitting authority (the EPA Regional office or State Agency), engineering, cost, and other data relating to a proposed innovative technology. After the permitting authority has considered the compliance extension application and supporting documents, a panel of EPA personnel will conduct a technical review of the application.

A discharger seeking a section 301(k) compliance extension must demonstate either that the innovative technology will result in an effluent reduction significantly greater than that achieved by BAT, or (1) that the system can achieve an effluent reduction equivalent to BAT; and (2) that the technology has the potential for significantly lower costs than BAT. The comparison for effluent reduction between the BAT system and the innovative technology will be made either in terms of the total reduction in the mass of the regulated pollutants or in terms of the concentration of regulated pollutants, whichever is applicable. The Agency expects that the cost comparison will be made between the innovative system and the BAT system on the basis of dollars per pound of pollutant removed.

The section 301(k) program requires that cost comparisons or effluent reduction comparisons be made between innovative technologies and BAT model technologies. These comparisons would generally require the existence of either the applicable BAT effluent limitations guidelines or the accompanying development document for the industrial category under consideration. The Agency hopes that many of the final guidelines for the primary industries will be available by June, 1981. In most of the cases in which the final limitations guidelines have not been promulgated by that time, proposed limitations guidelines and draft development documents will be available. In those cases where neither proposed effluent guidelines nor draft development documents are available,

section 301(k) applications will be evaluated on a case-by-case basis.

The EPA is considering a requirement that each compliance extension applicant must demonstrate that its technology has the potential for industry-wide application. This requirement would be consistent with the intent of the CWA of fostering widespread use of innovative technologies, although EPA recognizes that there could be other interpretations regarding which applicants are required by the CWA to demonstrate that potential. Moreover, the Agency anticipates that this requirement will not be a major hurdle for applicants because the Agency expects to interpret the term industry-wide application to mean two or more facilities in the pertinent industrial subcategory (see discussion in section III. D. below).

III. Issues for Comment

A. "Public Interest"—One of the principal issues about which the Agency is concerned is the public interest in section 301(k), especially the number of dischargers which anticipate applying for a compliance extension. The extent and type of interest in section 301(k), as expressed in the response to this Advance Notice of Proposed Rulemaking, will influence the development of the proposed regulation, particularly the structure of the review process. Public comment is invited on the usefulness of the compliance extension as a device for fostering innovation in industrial wastewater treatment and on the expected effectiveness of the three year extension offered by section 301(k) as an inducement to innovation.

B. "Innovative Technology"—Section 301(k) of the Clean Water Act of 1977 uses the terms innovative production process, innovative control technique, and innovative systems without defining each separately. The EPA expects that it will group all three terms under the term "innovative technology" for the purposes of the section 301(k) program and invites comment on this approach.

In evaluating an application for a compliance extension, a permit writer would consider not only the cost savings or effluent reduction achievable by the technology, but also such factors as by-product recovery, net energy consumption, and recycling and reuse of wastewater in determining whether the technology should be classified as innovative. A permit writer also could consider that a technology results in reduced abatement expenditures for other forms of pollution (e.g., air pollution or hazardous wastes) in determining whether that technology qualifies for a section 301(k) compliance extension.

C. "Significantly Greater Effluent Reduction" and "Significantly Lower Cost"—The EPA is considering several alternatives for the application of the terms "significantly greater effluent reduction" and "significantly lower cost". One option would be to have the permit writer or technical review panel determine on a case-by-case basis whether an innovative technology produces a significant reduction in the effluent levels discharged or in the cost of the technology. The main drawback to this alternative is the potential for inconsistent administration of the section 301(k) program if decisions on section 301(k) applications are not coordinated. One advantage of this approach would be that it would allow permit writers more flexibility in considering site-specific factors such as climate and land availability as well as industry-specific factors in making their determination.

A second alternative would be to establish national norms, expressed as a percentage improvement in effluent reduction or in cost reduction, which would be applied uniformly to all dischargers. This approach would assure a much higher degree of consistency and uniformity than the first approach, but would prevent permit writers from considering industry-specific factors in making their decision.

A third approach would be to establish norms for each category of industrial dischargers. This alternative would promote a balance between the first two approaches in terms of consistency and flexibility, but would require the Agency to commit substantial resources and a considerable period of time in developing norms on an industry-by-industry basis.

D. "Industry-Wide Application"—EPA interprets section 301(k) to require that innovative technologies qualifying for a compliance extension have the potential for "industry-wide application". EPA is currently considering two definitions of industry-wide application. One would require that a proposed innovative technology have the potential for application in the majority of plants in the pertinent industrial subcategory. The other definition would require only that the innovative technology have the potential for application at two or more plants in the pertinent industrial subcategory. In either case, the plants to which the technology could be applied may be owned by the same discharger.

As stated previously, the Agency presently favors the second definition, which is supported by language from the legislative history. In addition, since the second definition would broaden the number of innovative technologies which may qualify for a compliance extension, its adoption would tend to foster the development and use of innovative pollution control methods. The Agency understands, however, that the first definition might conform more closely to a more conventional interpretation of the phrase "industry-wide application". In addition, adoption of the first definition would tend to balance the harm due to a three year delay in the implementation of BAT standards with the assurance of more extensive application of innovative technologies.

E. "Technical Appendix"—The Agency is considering attaching a technical appendix to the regulation implementing section 301(k). This appendix would include a listing of technologies which the Agency considers to be possible candidates for designation as innovative. The appendix would serve as guidance for industry in the preparation of applications for extensions and for permit writers and the technical review panel in their evaluation of applications. The Agency requests submission of information on any technology which should be added to the list. The technologies which are to be included in the appendix to the final regulation can not be those which are then being considered as candidates for designation as the BAT model technology for a particular industry.

Included as an appendix to this Advance Notice of Proposed Rulemaking is a list of technologies. The Agency invites comment on the suitability of these technologies as candidates for section 301(k) compliance extensions.

F. "Verification"—The EPA expects that part of the 301(k) application process would include submission of certain engineering and cost data by the applicant. These data would include a detailed engineering estimate of the improvement in effluent reduction or cost reduction which the innovative technology is expected to achieve. Ordinarily, the engineering data would include laboratory analyses and test data from bench scale and pilot plant demonstrations. The Agency anticipates requiring certification of the engineering data and cost estimates by a professional engineer, but invites comment on the suitability of this requirement. The Agency requests comments on this approach and recommendations as to what other information would be useful in evaluating section 301(k) applications.

G. "Length of Extension"—The EPA believes that the length of the compliance extensions granted under section 301(k) should be the time necessary to install the innovative technology and to correct any major defects in its operation. The CWA provides, however, that the Agency may not grant an extension beyond July 1, 1987. The determination of the length of the extension would be made on a case-by-case basis. The Agency solicits comments on this approach.

H. "Length of Time Technology Is Considered Innovative"—EPA solicits comments on the length of time a technology should be considered innovative and thus eligible for a section 301(k) extension once the first full-scale demonstration of the technology has been made. The Agency is specifically interested in comments on the qualities or characteristics which distinguish an innovative technology from one which is not.

I. "Duplication of an Innovative Technology"—The agency expects that, once a compliance extension has been granted within an industrial category, the technology could be adopted by other firms within that category which, in turn, might qualify for a compliance extension. The Agency invites comments on how the regulation can be structured to encourage widespread application of innovative technologies without interfering with the interest of firms, which develop those technologies, in protecting proprietary information.

J. "Failure of Innovative Technologies"—EPA recognizes that it is possible that some of the innovative technologies which are approved for compliance extensions under section 301(k) may not achieve the originally projected effluent or cost reduction. EPA also recognizes that a discharger installing an innovative technology may not attain the BAT effluent limitations for its facility by the conclusion of its compliance extension. The Agency invites comment on the appropriate enforcement policy for those situations.

Dated: September 12, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Examples of Potential Innovative Technologies

The following tables provide a partial listing of technologies which the Agency believes may satisfy the requirement for a 301(k) compliance extension of effluent or cost reduction. However, the fact that a technology is listed in this appendix does not mean that a compliance extension application based on a technology from this appendix will automatically qualify for an extension. The Agency emphasizes that this appendix is not intended to constitute a list of technologies which will qualify for extensions, but instead is intended to serve as a basis for promoting comments by interested parties regarding the type of technologies which should qualify for a compliance extension under the terms of section 301(k).

It should be recognized that decisions on section 301(k) applications will be made on a case-by-case basis and will be influenced by case specific factors, such as the nature of the industry, the characteristics of the facility, and the expected performance of the proposed technology. It also should be recognized that the list of technologies in the appendix is illustrative, not all-inclusive. The Agency expects that other technologies might qualify for section 301(k) compliance extensions and encourages permittees to apply for an extension for any innovative technology which meets the basic 301(k) cost or effluent quality criterion. The Agency solicts comments on the listed technologies, including suggestions for additions, deletions, or modifications to the list of potential innovative technologies.

Table 1

GENERIC END-OF-PIPE TECHNOLOGIES

Supercritical CO_2 Regeneration of Activated Carbon—Traditionally activated carbon has been regenerated by thermal processes. A method has been developed whereby carbon can be regenerated with supercritical CO_2 without removing carbon from housing. Compared to pyrolysis, the energy savings are expected to be substantial.

Microfiltration may be applied to remove metals, organics, and inorganic pollutants. It may be applicable to industries such as coil coating or porcelain enameling.

Electrochemical Chromium Reduction involves an electrochemical reaction in which consumable iron electrodes generate ferrous ions in the presence of an electrical current. These ions react with chromate ions in solution, producing chromic hydroxides and ferric hydroxides which can be removed by settling without the need for further chemical addition. This method may also be effective in removing zinc and other heavy metals.

Filter Coalescence involves the coalescence and separation of nonemulsified oil from wastewater and could be used as a secondary treatment for oily wastewaters following emulsion breaking or suspended solids removal.

Electro and Donnan dialysis may be applicable to in-plant concentration and recycle-reuse for wastes such as those from metal finishing.

Ozonation may be applicable for destruction of iron-complexed cyanides, possibly in conjunction with ultraviolet light. Alkaline chlorination, a method commonly used to remove cyanide, requires more extensive contact times to be effective in destroying these complexes.

Ozonation may also be used for oxidizing phenols and other organics contributing to BOD and COD. It completely degrades many organics to compounds which are less harmful. It has been tested on municipal wastewaters where it has reduced the phenol content from 0.5 to 0.003 mg/1. Ozonation may be applicable in industries such as coil coating or plastic forming.

Table 2

IN-PLANT TECHNOLOGIES

Metals Industries

Metal Finishing: For electroplating wastes the use of in-process recovery techniques could result in the reduction of wastewater pollutants and hazardous solid wastes. A very promising system has been developed which might be used on copper, cadmium, zinc, nickel, and chromium plating.

Inorganic Industries

Titanium Dioxide: Reduction of toxic metals can be achieved by aeration in the presence of ferrous iron. Toxic metals can be reduced by aeration of the wastewater in the presence of ferrous iron to half or less the concentration attainable by conventional alkaline precipitation. This technique is particularly applicable to wastes containing ferrous iron with toxic metals such as titanium dioxide, sulfate process wastes, or pickle liquor. However, it can be used on any toxic metals waste stream with the addition of ferrous iron. This treatment produces an easily settled or filtered waste. Results are equal to or better than those obtained by sulfide precipitation, without adding sulfide to the waste stream.

Electrical and Electronic Components: In the semiconductor area, industry is experimenting with plasma etching and dicing. If developed, this would result in the elimination of a substantial portion of the discharge from this industry. For lamp filaments manufacture, major corporations are developing a mandrelless process which eliminates the need for process water.

Leather and Food Industries

Leather Tanning: Combined solid waste management facilities could be considered for small and potentially effected plants in the leather tanning and finishing industry. The facilities could include combined ("coop" or similar) hazardous waste dewatering and disposal, and resource recovery, (i.e., chromium.)

Food: By-product recovery and animal refeeding of waste water treatment sludges from food processing plants could be undertaken, with special emphasis on sludges generated with the assistance of chemical coagulants. Such a project could be cooperatively developed and monitored by EPA, FDA, and USDA to ensure compliance with existing regulations and to enhance industry visibility and acceptance.

Meat Packing: Energy efficient wastewater treatment technologies which minimize direct energy consumption and utilize secondary energy sources (i.e., waste heat addition to efficient aeration systems in cold climates) could be considered. Such a technology might be single-stage high solids activated sludge with extended aeration. This system could be applied to meat packing wastewaters in northern climates to provide concurrent nitrification for consistent year-round removal of ammonia.

Pulp, Paper, Textile, Paint Industries

Uddeholm Ion Exchange: This process enables reuse of substantial quantities of bleachery effluent after treatment in ion exchange columns.

Paint: Paint and ink wastewater can be recycled into product after using separation technologies such as ultrafiltration.

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BILLING CODE 6560-01-M

ACTION

Peace Corps

45 CFR Part 1225

Volunteer Discrimination Complaint Procedure

AGENCY: Action and Peace Corps.

ACTION: Notice of proposed rulemaking.

SUMMARY: These regulations establish a procedure for the handling of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap, or political affiliation which arise in connection with the enrollment or service of full-time volunteers in Peace Corps and ACTION. This amendment is necessary to ensure that such volunteers are within the scope of nondiscrimination provisions.

DATE: Comments must be received by October 20, 1980.

ADDRESS: Comments should be sent to the Office of General Counsel, ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20525. Written comments should be identified with the words "Volunteer Complaint Procedure" on the envelope. Oral comments may be offered by calling (202) 254-8855.

FOR FURTHER INFORMATION CONTACT: Louise E. Maillett, Assistant General Counsel, ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20525 (202) 254-8855.

SUPPLEMENTARY INFORMATION: Section 12 of the Domestic Volunteer Service Act Amendments of 1979 (P.L. 96-143) extended to applicants for enrollment and volunteers serving under both the Peace Corps Act (22 U.S.C. 2501 *et seq.*) and the Domestic Volunteer Service Act (42 U.S.C. 4951 *et seq.*) the nondiscrimination policies and authorities set forth in Section 717 of the Civil Rights Act of 1964, Title V of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. That section further directed that any remedies available to individuals under such laws, other than the right to appeal to the Civil Service Commission authorized by Section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

This amendment was necessary to ensure that such volunteers were within the scope of the nondiscrimination provisions of the three cited Acts, since those Acts apply to either employees or recipients of Federal financial assistance. Due to Section 5(a) of the Peace Corps Act and Section 415 of the Domestic Volunteer Service Act, volunteers are not deemed Federal employees except for certain stated purposes. Nor have such volunteers been treated as recipients of Federal financial assistance. However, aware of the unique status of domestic and international volunteers, Congress, in extending the protection of the cited Acts to the volunteers, did not require the *per se* adoption of the rules, regulations, and procedures extant under such Acts, but rather required that the Director, after consultation with certain designated entities, prescribe regulations specifically tailored to the circumstances of such volunteers.

Complaint Procedure

These regulations apply to the recruitment, selection, placement, service, or termination of Peace Corps or ACTION applicants, trainees, and volunteers for full-time service in either a domestic or international program. They require that an aggrieved party who believes that he or she has been discriminated against must first meet with a Counselor to attempt an informal resolution of the matter. If this fails, a formal complaint may be filed with the Director of the Equal Opportunity Division of the Office of Compliance, ACTION (EO Director). When the complaint is accepted, an investigation into the matter will be performed and the report submitted to both the EO Director and the complainant. The EO Director shall review the complaint file, including any additional statements provided by the complainant, and shall offer an adjustment of the complaint if it is warranted. If this adjustment is not acceptable to the complainant, or if the EO Director determines that such an offer is not warranted by the circumstances of the complaint, the file, including the EO Director's recommendation, will be forwarded to the appropriate agency Director for decision. The complainant will be notified of this action and of his or her right to appeal the recommendation. Upon receipt and review of the complaint file and any additional matter submitted by the complainant, the Director shall issue a final agency decision in writing to the complainant. If the complainant is dissatisfied with the final agency decision, the complainant may file in a timely manner a civil action alleging discrimination in the appropriate U.S. District Court.

Consultation

As required by statute in prescribing these regulations, ACTION and Peace Corps have consulted with the following entities: (1) the Equal Employement Opportunity Commission (EEOC) with regard to the application of the policies set forth in Section 717 of the Civil Rights Act of 1964; (2) the Interagency Coordinating Council and the Interagency Committee on Handicapped Employees with regard to the application of the policies set forth in Title V of the Rehabilitation Act of 1937; and (3) the Secretary of Health and Human Services, with regard to the application of the policies set forth in the Age Discrimination Act of 1975. This consultation process has been completed with both the EEOC and the Secretary of Health and Human Services prior to the publication of this document. These procedures are presently under review at both the Interagency Coordinating Council and the Interagency Committee on Handicapped Employees and are respectively scheduled for consideration in their September or October meetings. Thus, prior to the publication of the final regulations, the consultation process will have been completed.

This regulation, as a matter involving volunteers, is exempt from the requirements of Executive Order 12044: "Improving Government Regulations."

Accordingly, Part 1225 is added, as follows, to Title 45 of the Code of Federal Regulations:

PART 1225—VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Subpart A—General Provisions

Subpart B—Processing Individual Complaints of Discrimination

Subpart C—Processing Class Complaints of Discrimination

Sec.

Authority: Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979.

Subpart A—General Provisions

§ 1225.1 Purpose.

The purpose of this Part is to establish a procedure for the filing, investigation, and administrative determination of allegations of discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, which arise in connection with the recruitment, selection, placement, service, or termination of Peace Corps and ACTION applicants, trainees, and volunteers for full-time service.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137; issued May 16, 1979)

§ 1225.2 Policy

It is the policy of Peace Corps and ACTION to provide equal opportunity in all its programs for all persons and to prohibit discrimination based on race, color, national origin, religion, age, sex, handicap or political affiliation, in the recruitment, selection, placement, service, and termination of Peace Corps and ACTION volunteers. It is the policy of Peace Corps and ACTION upon determining that such prohibited discrimination has occurred, to take all necessary corrective action to remedy the discrimination, and to prevent its recurrence.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.3 Definitions.

Unless the context requires otherwise, in this part:

(a) "Director" means the Director of Peace Corps for all Peace Corps applicant, trainee, or volunteer complaints processed under this Part; or the Director of ACTION for all domestic applicant, trainee, or volunteer complaints processed under this Part. The term shall also refer to any designee of the respective Director.

(b) "EO Director" means the Director of the Equal Opportunity Division of the Office of Compliance, ACTION. The term shall also refer to any designee of the EO Director.

(c) "Illegal discrimination" means discrimination on the basis of race, color, national origin, religion, age, sex, handicap or political affiliation as defined in Section 5(a) of the Peace Corps Act (22 U.S.C. 2504); Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 1000–16); Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791, *et seq.*); and of the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*). Further clarification of the scope of matters covered by this definition may be obtained by referring to the following regulations: Sex Discrimination: 29 CFR Part 1604; Religious Discrimination: 29 CFR Part 1605; National Origin Discrimination: 29 CFR Part 1606; Age Discrimination: 45 CFR Part 90; Handicap Discrimination: 29 CFR 1613.701–707.

(d) "Applicant" means a person who has submitted to the appropriate agency personnel a completed application required for consideration of eligibility for Peace Corps or ACTION volunteer service. "Applicant" may also mean a person who alleges that the actions of agency personnel precluded him or her from submitting such an application or any other information reasonably required by the appropriate personnel as necessary for a determination of the individual's eligibility for volunteer service.

(e) "Trainee" means a person who has accepted an invitation issued by Peace Corps or ACTION and has registered for Peace Corps or ACTION training.

(f) "Volunteer" means a person who has completed all necessary training successfully; met all clearance standards; has taken, if required, the oath prescribed in either Section 5(j) of the Peace Corps Act (22 U.S.C. 2504), or Section 104(c) of the Volunteer Service Act of 1973, as amended (42 U.S.C. 104(c)) and has been enrolled as a full-time volunteer by the appropriate agency.

(g) "Complaint" means a written statement signed by the complainant and submitted to the EO Director. A complaint shall set forth specifically and in detail:

(1) A description of the Peace Corps or ACTION management policy or practice giving rise to the complaint;

(2) A detailed description including names and dates, if possible, of the actions of the Peace Corps or ACTION officials which resulted in the alleged illegal discrimination;

(3) The manner in which the Peace Corps or ACTION action directly affected the complainant; and

(4) The relief sought.

A complaint shall be deemed filed on the date it is postmarked or, in the absence of a postmark, on the date it is received by the appropriate agency official. When a complaint does not conform with the above definition, it shall nevertheless be accepted. The complainant shall be notified of the steps necessary to correct the deficiencies of the complaint. The complainant shall have 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint.

(h) "Counselor" means an official designated by the EO Director to perform the functions of conciliation as detailed in this Part.

(i) "Agent" means a class member who acts for the class during the processing of a class complaint. In order to be accepted as the agent for a class complaint, in addition to those requirements of a complaint found in § 1225.3(g), the complaint must meet the requirements for a class complaint as found in Subpart C of these regulations.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.4 Coverage.

(a) These procedures apply to all Peace Corps or ACTION applicants, trainees, and volunteers throughout their term of service with the Peace Corps or ACTION.

When an applicant, trainee, or volunteer makes a complaint which contains an allegation of illegal discrimination in connection with an action that would otherwise be processed under a grievance, early termination, or other administrative system of the agency, the allegation of illegal discrimination shall be processed under this Part. At the discretion of the appropriate Director, any other issues raised may be consolidated with the discrimination complaint for processing under these regulations. Any issues which are not consolidated shall continue to be processed under those procedures in which they were originally raised.

(b) The submission of class complaints alleging illegal discrimination as defined above will be handled in accordance with the procedure outlined in Subpart C.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.5 Representation.

Any aggrieved party may be represented and assisted in all stages of these procedures by an attorney or representative of his or her own choosing. An aggrieved party must immediately inform the agency if counsel is retained. Attorney fees or other appropriate relief may be awarded in the following circumstances:

(a) Informal adjustment of a complaint. An informal adjustment of a complaint may include an award of attorney fees or other relief deemed appropriate by the EO Director. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney fees or costs should be awarded, or on their amount, this issue may be appealed to the appropriate EO Director to be determined in the manner detailed in § 1225.10.

(b) Final Agency Decision. When discrimination is found, the agency shall advise the complainant that any request for attorney fees or costs must be documented and submitted for review within 20 calendar days after his or her receipt of the final agency decision. The amount of such awards shall be determined under § 1225.10. In the unusual situation in which the agency determines not to award attorney fees or other costs to a prevailing complainant, the agency in its final decision shall set forth the specific reasons thereof.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.6 Freedom from reprisal.

Aggrieved parties, their representatives, and witnesses will be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage described in § 1225.7, or any time thereafter.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, and 414; Sec. 5(a), Pub. L. 87–293; 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

Subpart B—Processing Individual Complaints of Discrimination

§ 1225.7 Precomplaint procedure.

(a) An aggrieved person who believes that he or she has been subject to illegal discrimination shall bring such allegations to the attention of the appropriate Counselor within 30 days of the alleged discrimination to attempt to resolve them. The process for notifying the appropriate Counselor is the following:

(1) Aggrieved applicants, trainees or volunteers who have departed for overseas assignments, or who have returned to Washington for any administrative reasons shall direct their allegations to the EO Director for assignment to appropriate Counselor.

(2) Aggrieved trainees or volunteers overseas shall direct their allegations to the designated Counselor for that post.

(3) All domestic applicants, trainees, or volunteers shall direct their allegations to the EO Director for assignment to a Counselor.

(b) Upon receipt of the allegation, the Counselor or designee shall make whatever inquiry is deemed necessary into the facts alleged by the aggrieved party and shall counsel the aggrieved party for the purpose of attempting an informal resolution agreeable to all parties. The Counselor will keep a written record of his or her activities which will be submitted to the EO Director if a formal complaint concerning the matter is filed.

(c) If after such inquiry and counseling an informal resolution to the allegation is not reached, the Counselor shall notify the aggrieved party in writing of the right to file a complaint of discrimination with the EO Director within 15 calendar days of the aggrieved party's receipt of the notice.

(d) The Counselor shall not reveal the identity of the agrieved party who has come to him or her for consultation, except when authorized to do so by the aggrieved party. However, the identity of the aggrived party may be revealed once the agency has accepted a complaint of discrimination from the aggrieved party.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.8 Complaint procedure.

(a) *EO Director.*

(1) The EO Director must accept a complaint if the process set forth above has been followed, and the complaint states a charge of illegal discrimination. The agency will extend the time limits set herein (a) when the complainant shows that he or she was not notified of the time limits and was not otherwise aware of them, or (b) the complaint shows that he or she was prevented by circumstances beyond their control from submitting the mater in a timely fashion, or (c) for other reasons considered sufficient by the agency. If the complaint is rejected for failure to meet one or more of the requirements set out in the procedure outlined in § 1225.7, the EO Director shall inform the aggrieved party in writing of this fact, and that the Peace Corps or ACTION will take no further action.

(2) Upon acceptance of the complaint and receipt of the Counselor's report, the EO Director shall provide for the prompt investigation of the complaint. Whenever possible, the person assigned to investigate the complaint shall occupy a position in the agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, and any other circumstances which may constitute, or appear to constitute discrimination against the complainant. The investigator shall prepare a report to the EO Director containing the facts of the investigation and a recommendation regarding the resolution of the complaint and shall provide the complainant with a copy of the report.

(3) The EO Director shall review the complaint file including any additional statements provided by the complainant and shall offer an adjustment of the complaint if the facts support the complaint. If the proposed adjustment is agreeable to all parties, the terms of the adjustment shall be reduced to writing and made part of the complaint file. A copy of the terms of the adjustment shall be provided the complainant. If the proposed adjustment of the complaint is not acceptable to the complainant, or the EO Director determines that such an offer is inappropriate, the EO Director shall forward the complaint file with a written notification of the findings of facts, and his or here recommendation of the proposed disposition of the complaint to the appropriate Director. The aggrieved party shall receive copy of the notification and recommendation and shall be advised of the right to appeal the recommendation and disposition to the Director. Within ten (10) calendar days of receipt of such notice, the complainant may submit his

or her appeal of the recommendation and proposed disposition to the appropriate Director.

(b) *Appeal to Director.*

If no notice of appeal is received from the aggrieved party, the appropriate Director or designee may adopt the proposed disposition as the Final Agency Decision. If the aggrieved party appeals, the appropriate Director or designee, after review of the total investigative file, shall issue a decision to the aggrieved party. The decision shall be in writing, state the reasons underlying the decision, and shall be the Final Agency Decision.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.9 Corrective action.

When it has been determined by Final Agency Decision that the aggrieved party has been subjected to illegal discrimination, the following corrective actions may be taken:

(a) Selection as a Trainee for aggrieved parties found to have been denied selection based on prohibited discrimination;

(b) Reappointment to volunteer service for aggrieved parties found to have been early-terminated as a result of prohibited discrimination. To the extent possible, a volunteer will be placed in the same position previously held. However, reassignment to the specific country of prior service, or to the specific position previously held, is contingent on several programmatic considerations such as the continued availability of the position or program in that country and acceptance by the host country to such placement.

(c) Provision for attorney fees and other costs incurred by the aggrieved party.

(d) Such other relief as may be deemed appropriate by the Director of Peace Corps or ACTION.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.10 Amount of attorney fees.

(a) When a decision of the agency provides for an award of attorney's fees or costs, the complainant's attorney shall submit a verified statement of costs and attorney's fees, as appropriate, to the agency within 20 days of receipt of the decision. A statement of attorney's fees shall be accompanied by an affidavit executed by the attorney of record itemizing the attorney's charges for legal services. Both the verified statement and the accompanying affidavit shall be made a part of the complaint file. The amount of attorney's fees or costs to be awarded the complainant shall be determined by agreement between the complainant, the complainant's representative and the agency. Such agreement shall immediately be reduced to writing. If the complainant, the representative and the agency cannot reach an agreement on the amount of attorney's fees or costs within 20 calendar days of reciept of the verified statement and accompanying affidavit, the agency shall issue a decision determining the amount of attorney's fees or costs within 30 calendar days of receipt of the statement and affidavit. Such decision shall include the specific reasons for determining the amount of the award.

(b) The amount of attorney's fees shall be made in accordance with the following standards: the time and labor required, the novelty and difficulty of the questions, the skill requisite to perform the legal serice properly, the preclusion of other employment by the attorney due to acceptance of the case, the customary fee, whether the fee is fixed or contingent, time limitaiton imposed by the client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

Subpart C—Processing Class Complaints of Discrimination

§ 1225.11 Institution of complaint.

An applicant volunteer or trainee who believes that he or she is among a group of present or former Peace Corps or ACTION volunteers, trainees, or applicants for volunteer service who have been illegally discriminated against and who with to be an agent for the class shall follow those precomplaint procedures outlined in § 1225.7 of this Part.

(Secs. 417, 402(14), 420; Pub. L. 93–113, 87 Stat. 398, 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.12 Acceptance, rejection or cancellation of complaint.

(a) Upon receipt of a class complaint, the Counselor's report, and any other information pertaining to timeliness or other relevant circumstances related to the complaint, the EO Director shall review the file to determine whether to accept or reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation which is identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) It is not within the purview of this subpart;

(4) The agent failed to consult a Counselor in a timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the following prequisites:

(i) The class is so numeorus that a consolidated complaint of the members of the class is impractical;

(ii) There are questions of fact common to the class;

(iii) The claims of the agent of the class are representative of the claims of the class;

(iv) The agent of the class, or his or her representative will fairly and adequately protect the interest of the class;

(b) If an allegation is not included in the Counselor's report, the EO Director shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he or she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the EO Director may decide to reject the allegation. If the explanation is satisfactory, the EO Director may require further counseling of the agent.

(c) If an allegation lacks specificity and detail, the EO Director shall afford the agent 15 calendar days to provide specific and detailed information. The EO Director may decide that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information

provided contains new allegations outside the scope of the complaint, the EO Director must advise the agent how to proceed on an individual or class basis concerning these allegations.

(d) The EO Director may extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his or her representative, shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limit.

(e) When appropriate, the EO Director may determine that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(f) The EO Director may cancel a complaint after it has been accpeted because of failure of the agent to prosecute the complaint. This action may be taken only after:

(1) The EO Director has provided the agent a written request, including notice of proposed cancellation, that he or she provide certain information or otherwise proceed with the complaint; and

(2) The agent has failed to satisfy this request within 15 calendar days of his or her receipt of the request.

(g) An agent must be informed by the EO Director in a request under paragraphs (b) or (c) of this section that his or her complaint may be rejected if the information is not provided.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.13. Consolidation of complaints.

The EO Director may consolidate the complaint if it involves the same or sufficiently similar allegations as those contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency.

(Secs. 417, 402(14), 420, Pub. L. 93–113, Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.14. Notification and opting out.

(a) Upon receipt of an appeal of a class complaint, the agency, within 30 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain: (1) The name of the agency or organizational segment thereof, its location and the date of acceptance of the appeal; (2) a description of the issues accepted as part of the class complaint; (3) an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and (4) and explanation of the binding nature of the final decision or resolution of the complaint.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398; 407 and 404; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.15. Investigation and adjustment of complaint.

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been accepted, the procedure outlined in § 1225.8 shall apply.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398; 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 617; Executive Order 12137, issued May 16, 1979)

§ 1225.16 Agency decision.

(a) If an adjustment of the complaint cannot be made the procedures outlined in § 1225.8 shall be followed by the EO Director except that any notice required to be sent to the aggrieved party shall be sent to the agent or his or her representative of the class complaint.

(b) The Final Agency Decision on a class complaint shall be binding on all members of the class.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398; 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.17. Notification of class members of decision.

Class members shall be notified by the agency, through the same media employed to give notice of the existence of the class complaint, of the agency decision and corrective action, if any. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within ten (10) calendar days of the transmittal of its decision to the agent.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398; 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.18. Corrective action.

(a) When discrimination is found, Peace Corps or ACTION must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with § 1225.9 of this part.

(b) When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a volunteer or received some other volunteer service benefit, the class member may file a written claim with the EO Director within thirty (30) calendar days of notification by the agency of its decision.

(c) The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which occurred within the ninety (90) calendar days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or, in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EO Director.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398; 407 and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.19. Claim appeals.

(a) If the EO Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which the claimant is entitled, the EO Director shall refer the claim, with recommendations concerning it to the appropriate Director for Final Agency Decision and shall so notify the claimant. The class member may submit written evidence to the appropriate Director concerning his or her status as a member of the class. Such evidence must be submitted no later than ten (10) calendar days after receipt of referral.

(b) The appropriate Director shall decide the issue within thirty (30) days of the date of referral by the EO Director. The claimant shall be informed in writing of the decision and its basis and it will be the Final Agency Decision on the issue.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 398, 407, and 414; Sec. 5(a), Pub. L. 87–293, 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

§ 1225.20. Statutory rights.

(a) A volunteer trainee, or applicant is authorized to file a civil action in an appropriate U.S. District Court:

(1) Within thirty (30) calendar days of his or her receipt of notice of final action taken by his or her agency.

(2) After one hundred eighty (180) calendar days from the date of filing a

complaint with his or her agency if there has been no final agency action.

(b) For those complaints alleging discrimination that occurs outside the United States, the U.S. District Court for the District of Columbia shall be deemed the appropriate forum.

(Secs. 417, 402(14), 420, Pub. L. 93–113, 87 Stat. 298, 407, and 414; Sec. 5(a), Pub. L. 87–293; 75 Stat. 613; Executive Order 12137, issued May 16, 1979)

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

Sam Brown,

Director of ACTION.

Richard F. Celeset,

Director of Peace Corps.

[FR Doc. 80–29056 Filed 9–18–80; 8:45 am]

BILLING CODE 6050–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–477; RM–3617]

FM Broadcast Station in Roy and Clearfield, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposed to assign Channel 300 to either Roy or Clearfield, Utah, as a first FM channel, in response to a petition filed by Kathy Wamsley. Petitioner is requested to state which of the two communities is desired for the assignment.

DATE: Comments must be filed on or before November 7, 1980, and reply comments on or before November 28, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1980.

Released: September 15, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making [1] was filed by Kathy Wamsley ("petitioner"), proposing the assignment of Class C FM Channel 300 on a hyphenated basis to the communities of Roy and Clearfield, Utah.[2] No responses to the proposal have been received.

(b) The channel can be assigned in conformity with the minimum distance separation requirements provided the transmitter is located 6 kilometers (4 miles) north of Roy or 11 kilometers (7 miles) north of Clearfield.[3]

(c) Petitioner states that if the channel is assigned, she will apply for its use.

(2) *Community Data:* (1) *Location:* Roy is located in Weber County approximately 46 kilometers (29 miles) north of Salt Lake City, Utah. Clearfield is located in Davis County approximately 41 kilometers (26 miles) north of Salt Lake City.

(b) *Population:* Roy—14,345; Weber County—126,278; Clearfield—13,316; Davis County—99,028. [4]

(c) *Local Aural Broadcast Service:* Neither Roy nor Clearfield has any local aural service.

3. *Economic Considerations:* Petitioner states that both Roy and Clearfield have the population to warrant a Class C allocation. No other demographic or economic data was provided.

4. *Preclusion Study:* Preclusion study done for Channel 300 at a site 8 kilometers (5 miles) north of Roy, Utah, taking into account the proposed assignment of Channel 298 to Orem, Utah. Preclusion will occur on Channels 299 and 300 in all or parts of the following forty-five counties: *Colorado:* Moffat; *Nevada:* Elko, White Pine; *Wyoming:* Lincoln, Uinta, Sublette, Teton, Sweetwater; *Idaho:* Twin Falls, Cassia, Jerome, Minidoka, Blaine, Power, Oneida, Bingham, Bannock, Caribou, Bonneville, Bear Lake, Lincoln, Franklin, Teton, Madison, Jefferson, Butte, Gooding, Owyhee; *Utah:* Box Elder, Cache, Rich, Weber, Morgan, Summit, Duchesne, Daggett, Uintah, Carbon, Grant, Emery, Sanpete, Sevier, Millard, Juab, Tooele. Petitioner indicates that Channel 274 is available in the precluded areas.

5. *Other Considerations:* Regarding the suburban issue, petitioner asserts that Roy and Clearfield are separate incorporated cities with individual needs and interests and should not be considered as suburbs of Ogden or Salt Lake City.

6. Petitioner requests the assignment of Channel 300 to Roy-Clearfield on a hyphenated basis. Hyphenation, however, is an assignment tool which we have used very sparingly, especially in regard to FM assignments. In the past we have done so only where it appeared that the communities should be treated as one due to their proximity and common social, cultural, trade, economic interests, etc. Petitioner provides no argument for doing so in this case. Therefore, the assignment will be proposed for a specific community. Since the two cities have approximately the same population we are proposing to assign Channel 300 to either Roy or Clearfield. petitioner is requested to indicate which community she seeks to serve and to locate in. No matter which one is chosen, however, the channel would be available for use at the other under the provisions of the "15-mile rule," Section 73.202(b) of the Commission's Rules.

7. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.203(b) of the Rules as follows:

City	Channel No.	
	Present	Proposed
Roy, Utah, or Clearfield, Utah		300

8. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 7, 1980, and reply comments on or before November 28, 1980.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on March 31, 1980, Report No. 1221.

[2] The distance between Roy and Clearfield is approximately 5 kilometers (3 miles).

[3] There is a pending proposal (RM–3554) to switch the channel of Station KABE in Orem, Utah, from Channel 296A to Channel 298. If this proposal is adopted, the site restriction is needed for the use of Channel 300 in both Roy and Clearfield. Petitioner has agreed to such a restriction.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-29081 Filed 9-18-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

29 CFR Part 2520

Proposed Regulations Relating to Reporting and Disclosure for Short Plan Years

Correction

In FR Doc. 80-25881, appearing at page 56843 in the issue of Tuesday, August 26, 1980, the following changes should be made:

1. On page 56843, third column, the fourth word in the first line of footnote 1 should read, "excepted".

2. On page 56845, first column, the last word in the fifth line of § 2520.104-50(b)(1)(iii) should read, "statements".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 45, No. 184
Friday, September 19, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Brazos Electric Power Cooperative; Intent To Prepare Environmental Impact Statement and Announcement of Public Scoping Meeting

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to the Brazos Electric Power Cooperative of Waco, Texas, for the construction of a 30.6 kilometer (19 mile), double circuit, 345 kV transmission line and a 345/138 kV substation. The line will extend from an existing 345 kV substation near Elm Mott in McLennan County, Texas, to the proposed substation near Whitney Dam in Bosque County, Texas. REA intends to hold a public scoping meeting on October 23, 1980, at 7:00 p.m., at the Holiday Inn, 1001 Lake Brazos, Waco, Texas. This meeting will aid the Federal decisionmaking process by identifying issues and concerns to be addressed in the EIS.

Alternatives to the proposed project include: (a) no action, (b) alternative transmission corridors and substation locations, (c) alternative types of construction, (d) alternative line designs, and (e) alternative substation designs. A "Transmission Facility Alternative Evaluation and Siting Study Report" has been prepared by the borrower and the alternatives and anticipated environmental effects were considered. A copy of this report can be reviewed at the Brazos Electric Power Cooperative's principal office in Waco, Texas, or at the office of REA's Power Supply Division, Room 5829, Agriculture South Building, Washington, D.C.

The public scoping meeting will be held in order to obtain public input and comments concerning the need for the project, route locations, potential project alternatives, significant issues that should be addressed in the EIS and other matters concerning the proposed construction.

REA encourags the public to attend the public scoping meeting and provide its input. Any persons, group or governmental entity which desires to make its comments, questions and/or recommendations in writing may do so either at the meeting or by writing to Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meetings and comments will be responded to in the EIS. All comments recived within 30 days of the public scoping meeting will be added to the record of the meeting.

REA's potential financing assistance to Brazos will be subject to, and release of funds will be contingent upon, REA's arriving at a satisfactory conclusion with respect to environmental effects. Final action will be taken only after compliance with the EIS procedures required by the National Environmental Policy Act of 1969.

This program is listed in the Catelog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 16th day of September 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-29067 Filed 9-18-80; 8:45 am]

BILLING CODE 3410-15-M

Dairyland Power Cooperative; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with the proposed REA loan guarantee commitment to Dairyland Power Cooperative (Dairyland) headquartered in La Crosse, Wisconsin.

The proposed REA loan guarantee will provide supplemental financial assistance that Dairyland requests for final closeout costs on the John P. Madgett Station Unit No. 1 and on previously approved miscellaneous generation projects. The guaranteed loan funds will also provide financial assistance for the development of an off-site ash disposal site and other miscellaneous new projects at various existing Dairyland generating stations.

Dairyland has prepared an Environmental Report and REA has prepared an Environmental Assessment concerning the possible loan guarantee.

Various alternative off-site disposal areas were examined by Dairyland. These alternatives include: the dredged interior of a rail loop approximately 1 mile south of the Alma site, an abandoned gravel pit near Buffalo City, Wisconsin, and three valley type fill operations off of State Highway 35 to the east and south of the Alma site. Of these three valleys, the southern most one, the Nammacher property, is considered to be the preferred alternative.

REA's independent evaluations of the environmental effects of the projects undertaken by Dairyland lead to the following conclusions: (1) there is no need for REA to prepare an Environmental Impact Statement in connection with the proposed loan guarantee commitment; and (2) the proposed financial assistance to Dairyland does not represent a major Federal action that will significantly affect the quality of human environment.

Based on REA's independent evaluation, including the REA Environmental Assessment and the Borrower's Environmental Report, a Finding of No Significant Impact was reached in accordance with Sections IV–B and IV–D of REA Bulletin 20–21.

Copies of REA's Finding of No Significant Impact and REA's Environmental Assessment may be reviewed in the Office of the Director, Power Supply Division, Room 5829, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or at the office of Dairyland Power Cooperative, P.O. Box 817, 2615 East Avenue, South, La Crosse, Wisconsin 54601. Copies may be obtained upon request at the addresses given above.

This Federal Assistance Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 15th day of September, 1980.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-29066 Filed 9-18-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket Nos. 33362, 38173, 38174]

Former Large Irregular Air Service Investigation and Applications of Eagle Aviation, Inc.; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on September 30, 1980 at 9:30 a.m. (45 FR 58928, September 5, 1980) is postponed indefinitely.

Dated at Washington, D.C., September 16, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-29054 Filed 9-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38596]

Marco Island Airways, Inc., Fitness Investigation; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding is assigned to be held on October 7, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., berfore the undersigned administrative law judge.

Dated at Washington, D.C., September 15, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-29053 Filed 9-18-80; 8:45 am]

BILLING CODE 6320-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1980 a service provided by workshops for the blind or other severely handicapped. Comments must be received on or before: October 22, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 7699

Repair of rubberized items:
Poncho
8405-00-935-3257
Mattress—noninsulated
8465-00-254-8887
Mattress—insulated
8465-00-518-2781
Waterproof Bag
8465-00-261-6909
Fort Bliss, Texas

C. W. Fletcher,

Executive Director.

[FR Doc. 80-29018 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1980 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 19, 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 notice (45 FR 46841) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1980:

SIC 7538

Rebuilding of Automotive Components, GSA Interagency Motor Pool, U.S. Post Office and Courthouse, Newark, New Jersey.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-29019 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletion to procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1980 a service provided by workshops for the blind or other severely handicapped. Comments must be received on or before: October 22, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following service from Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 7349

Campground Cleanup and Trash Removal, Pole Mountain and Centennial Areas, Forest Service, Laramie, Wyoming.

C. W. Fletcher,

Executive Director

[FR Doc. 80-29020 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-33-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Meeting

Authority of Committee: The Price Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: The next meeting of the Price Advisory

Committee has been scheduled for October 8, 1980, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503.

Purpose of the Meeting: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Price Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456–6756.

Dated: September 11, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80–29057 Filed 9–18–80; 8:45 am]

BILLING CODE 3175–01–M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Meeting Amendment

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Amendment to Notice of Meeting.

SUMMARY: This is notice of change in meeting location.

DATE: September 30, 1980.

TIME: 9 o'clock through 5 o'clock.

ADDRESS: Cloyd Heck Marvin Center Ballroom, 3rd Floor, 800–21st Street, NW., Washington, D.C. 20052.

FOR FURTHER INFORMATION CONTACT: Donna Rhodes, Office of the Deputy Under Secretary for Intergovernmental Affairs, Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202) 245–7904.

SUPPLEMENTAL INFORMATION: See **Federal Register**/Vol. 45, No. 178/ Thursday, September 11, 1980 p. 59939.

Michael J. Bakalis,

Deputy Under Secretary.

[FR Doc. 80–28995 Filed 9–18–80; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Vocational Education; Meeting Amendment

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of meeting.

SUMMARY: This notice refers, and is an amendment to, the Notice of meeting of the National Advisory Council on Vocational Education published on September 3, 1980, 45 FR 58391, and also describing the functions of the Council.

DATE: September 24–26, 1980.

ADDRESS: Howard Johnson's North, 4800 Merle Hay Road, Des Moines, Iowa

This notice announces cancellation of the portion of the agenda labelled, "NACVE Business Meeting" on Friday morning, September 26, 1980. Agenda for September 24 and 25 are not affected by this announcement.

Signed at Washington, DC on September 16, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80–28953 Filed 9–18–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; United States and Canada

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 10,100 curies of tritium gas to Atomic Energy of Canada, Ltd., to be used for preparation of zirconium and titanium tritides for monitoring of tritium leakage rates for long term immobilization of tritium from CANDU power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract No. S–CA–295 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than October 6, 1980.

For the Department of Energy.

Dated: September 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–29047 Filed 9–18–80; 8:45 a.m.]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; United States and the IAEA

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Cooperation in Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement concerns the approval of contractual arrangements for the transfer from the United States to the IAEA of 92 grams of Plutonium–239 and 13 grams of Plutonium–240 to be used for research and development in support of the U.S. program of technical support to IAEA safeguards.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement, designated as WC–IA–110, will not be inimical to the common defense and security.

This subsequent arrangemet will take effect no sooner than October 6, 1980.

For the Department of Energy.

Dated: September 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical programs.

[FR Doc. 80–29048 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; United States and the EURATOM

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale

of 20 milligrams of plutonium enriched to 88.62% in Pu–244 to the Federal Republic of Germany to be used for basic research in nuclear physics concerning cross section studies of Pu–244.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract S–EU–657 will not be inimical to the common defense and security.

The subsequent arrangement will take effect no sooner than October 6, 1980.

For the Department of Energy.

Dated: September 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–29049 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements Civil Uses; Proposed Subsequent Arrangement; United States and the EURATOM

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is herby given of a proposed "subsequent arrangement" under the Additonal Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 445.2 grams of normal Uranium to be used as standard reference material for calibration of analytical instruments at the Eurodif production facility, Pirrelatte, France.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract S–EU–658 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than October 6, 1980.

For the Department of Energy.

Dated September 16, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80–29050 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Biomass Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Biomass Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: September 23 and 24, 1980—8:30 a.m. to 4:30 p.m.

Place: Department of Energy, Forrestal Building, Room 4A–104, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F–032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Biomass Panel's findings will be presented at a later date to the parent Board. This notice is given in light of the broad public interest expressed in energy from biomass.

Tentative agenda: Discussion of issues to be addressed in the technical assessment of biomass energy. Issues include:

Biomass sources

Energetics and economics of biomass conversion

Alcohol fuels

Impacts of biomass energy utilization

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Issued at Washington, D.C. on September 12, 1980.

J. R. Young,

Associate Director for Management.

[FR Doc. 80–29099 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Action Taken on Consent Orders; Greendale Garage (Exxon) et al.

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed concerning selling prices alleged to be in excess of the maximum lawful selling price for motor gasoline. The Consent Orders do not address or limit any liability with respect to the consenting firm's prior compliance with the Mandatory Petroleum Price and Allocation Regulations. Among other matters, the consenting firms agree to reduce prices for each grade of gasoline to no more than the maximum lawful selling price, make a proper posting as required by law, and otherwise comply with applicable law. For further information regarding these Consent Orders, please contact Thomas M. Holleran, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202–653–3569.

Issued in Washington, D.C. on the 12th day of September 1980.

Robert D. Gerring, Director,

Enforcement Program Operations Division, Economic Regulatory Administration.

Consent Orders Issued

Name	Address	Issue date	Highest cents per gallon violation	Total violation and penalty
Northeast District—June 1980				
Greendale Garage (Exxon)	432 W. Boylston St., Worcester, MA 01606	June 4, 1980	7.2	$1,199.00
T.J.'s No. 1	Freedom Rd. and R. D. 13, Poughkeepsie, NY 12603	May 30, 1980	2.1	415.00
Cannon's Auto Service	255 Lake Avenue, St. James, NY 11780	June 2, 1980	1.2	400.00
A & B Sunoco	Box 434, St. James, NY 11780	June 2, 1980	4.8	400.00
Marty's Service Center	R. D. No. 1, Box 313 D2, Monticello, NY 12701	June 3, 1980	2.5	100.00
Nanuet Mobil	4 West Route 59, Nanuet, NY 10954	June 5, 1980	9.6	16,504.00.00
Hillcrest Chevron	North Main St. and Eckerson Rd., Spring Valley, NY 10977.	June 5, 1980	6.6	704.00

Consent Orders Issued—Continued

Name	Address	Issue date	Highest cents per gallon violation	Total violation and penalty
110 Shell, Inc.	Rt. 110 and Old Country Rd., Huntington, NY 11747	June 6, 1980	4.6	1,461.00
Great Neck Service Station	265 East Shore Road, Manhasset, NY 11030	June 6, 1980	7.2	560.00
Mabardy's Gulf	36 S. Main St., Natick, MA 01760	June 9, 1980	5.5	5,913.00
Ken Knapp Exxon	115 West Post Road, White Plains, NY 10606	June 12, 1980	6.7	1,428.00
Arlton L. Casser, T/A Pikesville Shell	1711 Reistertown Rd., Baltimore, MD 21208	June 10, 1980	3.0	256.22
James Bishop	220 S. Main Street, Federalsburg, MD 21632	June 6, 1980	1.9	105.94
John Crews	Mulberry and N. Green; Baltimore, MD	April 24, 1980	5.3	4,290.00
Don Placek	8350 Pulaski Highway, Baltimore, MD 21237	April 24, 1980	3.0	363.00
R. Vandevander	9607 Pulaski Highway, Baltimore, MD 21220	May 22, 1980	7.3	678.00
Whitney's Service Center	901 Hillside Avenue, New Hyde Park, NY 11040	June 16, 1980	5.1	2,500.00
Vallyn Motors	605 Burnside Avenue, Inwood, NY 11696	June 17, 1980	2.3	101.00
Conrad's Mobil	41 Central Street, East Bridgewater, MA	June 20, 1980	2.0	1,656.00
Hancock Exxon Service Station	819 Hancock Street, Quincy, MA	June 18, 1980	([2])	250.00
Washington Street Exxon	482 Washington St., Woburn, MA 01801	June 16, 1980	([2])	400.00
Clark Falls Service Center (Exxon)	Rt. 216 and 184, No. Stonington, CT 06359	June 10, 1980	7.4	12,300.00
Barrington Service (Mobil)[1]	170 County Road, Barrington, RI 02806	June 4, 1980	.8	108.00
Brook Street Garage (Mobil)[1]	250 Brook Street, Providence, RI	June 4, 1980	2.1	133.00
Cloverleaf Shell	I-270 and Rt. 85, Frederick, MD 21701	June 19, 1980	1.5	1,360.00
D. M. Fuel Stop	28030 Ridge Road, Damacus, MD 20750	June 17, 1980	3.0	327.36
Williams Bros	Box 28 Rt. 20, Rock Hall, MD 21661	June 26, 1980	4.0	1,200.00
Shkor's Exxon	2601 Sparrows Pt. Rd., Baltimore, MD 21219	June 26, 1980	2.0	5,542.00
Jim & Gwynne Getty	817 4th Street, Pocomoke, MD 21851	June 26, 1980	3.0	2,273.60
L. H. Inc	42-36 Northern Blvd., Long Island City, NY 11102	June 20, 1980	1.6	196.00
Lasley Service Station	190 East Jericho Turnpike, Mineola, NY 11501	Jan. 7, 1980	4.3	1,009.00
Nobscot Chevron	900 Edgel Road, Framingham, MA 01701	June 23, 1980	1.1	225.00
Truro Service Center	Route 6, Truro, MA 02666	June 26, 1980	6.1	572.00
Falmouth Exxon	502 Main Street, Falmouth, MA 02540	June 25, 1980	7.3	2,091.00
Bill's Chevron	435 Palmer Avenue, Falmouth, MA 02540	June 24, 1980	9.2	7,123.00
Jack's Exxon	Route 6, Truro, MA 02666	June 26, 1980	3.2	1,517.00
Al Krasner's Atlantic Service Station	935 Broad Street, Providence, RI 02905	June 23, 1980	3.0	2,645.00
Lavin Marina, Inc	110 Shore Drive, Barrington, RI 02806	June 25, 1980	1.4	156.00
Jo-Mac Gulf	885 Post Road, Warwick, RI 02888	June 27, 1980	1.6	680.00
Jerry's Texaco	1885 Mineral Spring, No. Providence, RI 02904	June 24, 1980	4.8	544.00
Northeast District—July 1980				
Havertown Gulf	Eagle and Darby Rds., Havertown, PA	July 3, 1980	2.0	$378.00
Bomar Auto Specialist	386 Lake Avenue, St. James, NY	June 30, 1980	9.7	1,877.00
James Leonardo Getty	Haverford and Lansdown Rds., Ardmore, PA	July 8, 1980	5.0	468.00
James King	MacDade and Holmes, Holmes, PA	June 30, 1980	3.0	319.00
Sunrise Sunoco Service Station	73-15 Eliot Ave., Maspeth, NY	July 8, 1980	3.9	173.00
Cresthill Mobil	Main St. and Eckerson Rd., Spring Valley, NY	July 14, 1980	5.8	2,165.00
Mansion Marina	112 Mansion Avenue, Staten Island, NY	July 14, 1980	6.4	500.00
Masters Service Center	155 Old Country Road, Carle Place, NY	July 18, 1980	2.1	718.00
Punchy's Garage	Highland Road, No. Truro, MA	July 18, 1980	4.3	4,151.00
Fraser Sales, Inc	255 Main Street, Lee, MA	July 17, 1980	7.7	6,377.00
Mashpee Exxon, Inc	Rte. 28 and 151, Mashpee, MA	July 15, 1980	5.6	3,618.00
Johnie's Exxon	3 Neponset Ave., Dorchester, MA	July 15, 1980	(3)	350.00
Highland Gulf	Rte. 6, No. Truro, MA	July 25, 1980	8.8	2,102.00
Cove Haven Marina	101 Naragansett Ave., W. Barrington, RI	July 28, 1980	7.7	177.00
Southeast District—June 1980				
Don's Shell	1300 E. Commercial Blvd., Ft. Lauderdale, FL 33334	Apr. 24, 1980	5.1	$141.79
Groveland Standard	137 West Broad St., Groveland, FL 32736	May 9, 1980	6.7	0
Henderson Exxon	Hwy 45 and Hwy 100, Henderson, TN 38340	June 2, 1980	1.4	205.00
Lou's American Phillips 66	7824 Rectory Lane, Annandale, VA 22002	June 3, 1980	4.6	391.96
Jobe's Union 76	3506 Airways, Memphis, TN 38116	June 4, 1980	2.0	210.00
Taylor's Shell	1707 Winchester, Memphis, TN 38116	June 4, 1980	1.8	448.62
Sarge's Service Center	1529 Bell Street, Montgomery, AL 36104	June 4, 1980	5.0	522.22
Chevron Food Mart	2808 U.S. Hwy 19, New Port Richery, FL	June 4, 1980	2.9	215.38
Ward's Texaco	Route 7, Greensboro, NC 27404	June 4, 1980	3.5	323.61
Mtn Top Mini Mart	Highway 315, Mt. Creek, AL 36051	June 5, 1980	1.9	81.60
Southaven Texaco	785 W. Stateline Rd., Southaven, MS 38671	June 5, 1980	2.0	750.00
Wayne's Texaco	8290 Hwy. 51 N, Southaven, MS 38671	June 5, 1980	2.0	160.00
Gene's Texaco	959 E. Fayetteville St., Asheboro, NC	June 5, 1980	5.2	1,852.66
S & S Texaco	1411 S.W. Pine Ave., Ocala, FL 32670	June 6, 1980	8.0	180.00
Don's Outboard	Rt. 4, Box 155, Deland, FL 32720	June 6, 1980	4.4	304.16
Johnson's Chevron	1741 So Pine, Ocala, FL 32670	June 6, 1980	6.7	801.57
Al Beck Chevron	Rt. 1, Box 145A, Sebastian, FL 32958	June 9, 1980	6.3	770.32
Art Selleck's Texaco	I-95 and S.R. 514, Palm Bay, FL 32905	June 9, 1980	5.6	308.60
Fischer's Chevron	2645 S.W. College Rd., Ocala, FL 32670	June 9, 1980	10.1	5,606.14
Grice's Chevron	926 Azalea Ln., Vero Beach, FL	June 10, 1980	4.9	9,763.84
Savannah 76 Auto	Box 280, Richmond Hill, GA	June 11, 1980	4.5	486.79
Bennett's Standard	P.O. Box 7667, Macon, GA 31204	June 11, 1980	13.1	1,130.53
Holly Bluff Marina	Rt. 3, Box 213, Deland, FL	June 12, 1980	9.8	234.75
Blann's Union 76	990 State Line Rd., Southaven MS	June 13, 1980	5.6	1,352.90
Larry's Standard	2801 Ponce de Leon, St. Augustine, FL	June 16, 1980	3.9	3,348.88
Meadowbrook Standard	324 Meadowbrook, Jackson, MS	June 17, 1980	7.1	1,857.09
Crews Texaco	U.S. Hwy 1 and S.R. 5, Hilliard, FL	June 17, 1980	7.8	1,054.30
Renna's Chevron	3506 Emerson Street, Jacksonville, FL	June 17, 1980	9.7	4,924.55
Steve's Pit Stop	5449 New Kings Road, Jacksonville, FL	June 17, 1980	13.7	1,898.04
S & S Chevron	5230 University Blvd, Jacksonville, FL	June 17, 1980	8.9	6,619.05
Allmond's Standard	7809 Lem Turner Rd., Jacksonville, FL	June 18, 1980	3.9	1,606.40
Glasco's Corner Grocery	Rt. 2, Box 239, Jackson, MS	June 18, 1980	8.3	650.90

Consent Orders Issued—Continued

Name	Address	Issue date	Highest cents per gallon violation	Total violation and penalty
Russell's Standard	218 Anastasia Blvd., St. Augustine, FL	June 23, 1980	5.2	264.22
Cox Standard Service	303 S. Ponce de Leon, St. Augustine, FL	June 23, 1980	.1	241.53
Waters Standard	14679 Duval Road, Jacksonville, FL	June 24, 1980	2.8	1,769.11
Newman's Exxon	6014 New Kings Rd., Jacksonville, FL	June 24, 1980	4.9	878.17
Phelts' Chevron	816 W. Union Street, Jacksonville, FL	June 24, 1980	4.9	4,301.30
Byrd & Richardson Corp., Pembroke Amoco	234 W. Pembroke Ave., Hampton, VA	June 24, 1980	1.3	154.50
Coon's Standard	10162 Lem Turner Rd., Jacksonville, FL	June 24, 1980	3.8	3,421.89
Ed Pitts Standard	706 Mississippi Drive, Waynesboro, MS	June 24, 1980	.7	195.10
Gibson's Standard	1069 Golfair Blvd., Jacksonville, FL	June 25, 1980	7.2	9,243.82
Frank's Texaco	1040 Golfair Blvd., Jacksonville, FL	June 25, 1980	1.9	478.66
I-95 Union 76	595 N.W. 95th Street, Miami, FL	June 25, 1980	13.2	1,016.40
Smith's Exxon	5057 New Kings Hwy., Jacksonville, FL	June 25, 1980	6.2	865.24
Sam's Standard	819 Dunn Avenue, Jacksonville, FL	June 25, 1980	6.7	6,146.10
Pate's Chevron	7206 103rd Street, Jacksonville, FL	June 26, 1980	1.1	239.56
Hubbard Standard Service	5917 Roosevelt Blvd., Jacksonville, FL	June 26, 1980	6.2	1,553.06
Lee's Gulf	I-95 and U.S. 1, St. Augustine, FL	June 27, 1980	4.7	304.75
Shatila Standard	Rt. 1, Box 328B, Elkton, FL	June 27, 1980	8.3	14,221.10
Southwest District—June 30, 1980				
Crossroads Exxon	1702 Commerical, Anson, TX 79501	May 8, 1980	1.3	$113.49
Coley's Exxon	211 W. Main, Euless, TX 76039	June 17, 1980	5.1	329.50
Fife's Grocery	Box 308, Broaddus, TX 75929	May 27, 1980	.9	111.03
Lake Arrowhead Concession	1313 Hunt St., Wichita Falls, TX 76302	June 27, 1980	2.9	138.86
North Shore Marina	Box 1108, Graham, TX 76046	June 6, 1980	.9	124.84
Rainbow Lodge	Star Route, Box 304, Graford, TX 76045	June 8, 1980	.7	105.80
Lakeview Lodge, Inc	Star Route, Graford, TX 76045	June 8, 1980	1.5	109.78
Dalrock Marina, Inc	Route 1, Box 66D, Rowlett, TX 75088	June 10, 1980	10.5	547.04
Lakeview Marina	P.O. Box 397, Lake Dallas, TX 75065	June 18, 1980	.4	102.00
Bennie Hanna Mobil	Route 31 and I-45, Angus, TX 75110	June 6, 1980	9.2	481.10
S. R. Summerall Mobil	7th Ave. and 7th St., Corsicana, TX 75110	June 5, 1980	.2	10.00
Uncle Gus Lodge	Star Rt. 1, Clifton, TX 76634	June 7, 1980	4.4	671.06
Cliffview Resort	Hwy. 22, Clifton, TX 76634	June 7, 1980	15.2	172.62
Navarro Harbor Marina	Rt. 1, Box 160, Dawson, TX 76639	June 7, 1980	13.2	386.38
Eagle Point Marina, Inc	No. 1 Eagle Point Dr., Lewisville, TX 75067	June 8, 1980	32.6	3,625.00
Captain's Cove Marina	Rowlett, TX 75088	June 25, 1980	2.4	391.84
Chandler's Landing Marina	No. 1 Harborview Dr., Rockwall, TX 75087	June 11, 1980	.1	352.90
P. D. Grocery	Rt. 1, Box 238, Jefferson, TX 75657	June 11, 1980	4.0	182.00
Phil's Shell Service	1644 Nicholson Dr., Raton Rouge, LA 70802	June 6, 1980	2.0	2,240.00
Slaven's Gulf Service	2480 Airline Hwy., Kenner, LA 70062	June 6, 1980	7.9	4,173.97
Dominick's Shell Service Station	500 North Rampart St., New Orleans, LA 70112	June 24, 1980	4.0	1,442.97
Weir Skelly Service Center	1130 N. Grand, Fayetteville, AR 72701	June 19, 1980	1.8	754.60
Texas Shell	General Delivery, Wildornado, TX 79098	June 20, 1980	1.1	100.00
Cliff Chevron	1201 South Union, Roswell, NM 88201	May 20, 1980	4.0	104.00
Matiwan Texaco	801 West 2nd St., Roswell, NM 88201	May 20, 1980	1.0	108.58
Ruidoso Exxon	P.O. Box 751, Ruidoso, NM 88345	May 21, 1980	2.5	383.81
Blondies Texaco	409 Craik, Marlin, TX 76661	June 10, 1980	1.0	675.00
Reddy's Texaco	308 Live Oak, Marlin, TX 76661	June 11, 1980	2.8	275.00
Richard M. Scaman Gulf	101 Williams, Marlin, TX 76661	June 9, 1980	4.0	600.00
Super Duper	P.O. Box 758, Houston, TX 77001	June 4, 1980	3.4	726.00
Southbelt Autoport Gulf	13541 Gulf Freeway, Houston, TX 77034	June 9, 1980	1.6	520.00
Melvin McCalip	1404 Gray, Houston, TX 77002	June 11, 1980	2.3	1,020.00
Walnut Creek Resort	P.O. Box 346, Gordonville, TX 76245	June 3, 1980	4.5	167.50
Southwest District—July 31, 1980				
Poteau Petroleum Products	200 N. Broadway, Poteau, OK 74953	July 1, 1980	6.0	$2,207.65
Loch Ness Marina	Rt. 1, Box 464, Willis, TX 77378	July 10, 1980	7.4	653.20
Port Sulphur Shell Service Station	P.O. Box 363, Port Sulphur, LA 70083	July 14, 1980	7.0	4,357.90
Parkview Texaco	1007 Parkview Dr., New Iberia, LA 70560	July 29, 1980	37.2	6,210.33
Raymond's & Terry's Gulf Servicenter	300 West Court, Winnfield, LA 71483	July 24, 1980	15.8	27,534.41
Terry's Service Station, Inc	U.S. Hwy. 90 and 8th St., Morgan City, LA 70380	July 24, 1980	10.9	12,329.53
Bierhower Mobil	301 East Hwy. 82, Honey Grove, TX 75446	June 27, 1980	(*)	0
Bullard Auto Parts	West Hwy. 82 East, Gainesville, TX 76240	July 14, 1980	6.8	296.28
Gardner Service	613 South Central, Hamlin, TX 79520	July 10, 1980	2.8	450.00
Soft-Touch Car Wash	3211 W. Mockingbird, Dallas, TX 75235	July 9, 1980	4.6	793.29
Cedar Cove Landing	Rt.1, Box 161, Point, TX 75472	July 15, 1980	3.0	356.00
Copper's Texaco	Richmond Rd. (I-30), Texarkana, TX 75501	July 18, 1980	(*)	250.00
Elrod's Mobil	215 NE. Front St., DeKalb, TX 75559	July 18, 1980	.7	202.02
Kinser Exxon	1409 Live Oak, Commerce, TX 75428	July 24, 1980	3.4	263.75
Lowery's Exxon	4325 Waco Dr., Waco, TX 76710	July 10, 1980	4.9	132.00
Big Pines Lodge	P.O. Box 2, Karnack, TX 75661	July 9, 1980	(*)	0
Pier 12/Marina, Inc	P.O. Drawer 121-0, Lewisville, TX 75067	July 11, 1980	(*)	250.00
Cedar Bayou Marina	Rt. 1, Box 596, Gordonville, TX 76245	June 9, 1980	3.2	154.00
George's Texaco	421 W. Grand, Marshall, TX 75670	June 30, 1980	2.2	173.96
Drake Mobil Service	500 West Grand, Marshall, TX 75670	July 1, 1980	1.7	178.80
Barker Exxon	300 West Huston, Linden, TX 75563	July 1, 1980	(*)	0
Stone Oil Co	P.O. Box 544, Linden, TX 75563	July 1, 1980	13.5	504.70
Duck's Service Station	200 West Main, Linden, TX 75563	July 1, 1980	(*)	250.00
Middlebrook Gulf	I-20 and Hwy. 271, Tyler, TX 757708	July 2, 1980	(*)	250.00
Towakoni Marina, Inc	Rt. 1, Box 69, Quinlan, TX 75474	July 17, 1980	1.8	727.77
Tanglewood Marina	Rt. 3, Box 280, Wills Point, TX 75169	July 14, 1980	2.0	136.00
Downtown Exxon	400 Jones St., Ft. Worth, TX 76102	July 2, 1980	3.6	2,682.00
Willow Springs Marina	Rt. 1, Mead, OK 73449	July 10, 1980	5.6	380.00
Porters Garage	Riverside, CA	June 30, 1980	.5	147.28
Auto Center Chevron	8315 Indiana Ave., Riverside, CA 92504	July 2, 1980	.8	8,600.49
Abbott's Exxon Service	29580 Nuevo Road, Nuevo, CA 92367	July 3, 1980	4.0	1,181.28

Consent Orders Issued—Continued

Name	Address	Issue date	Highest cents per gallon violation	Total violation and penalty
Robert Mitchell Union 76	9501 Indiana Street, Riverside, CA 92503	July 3, 1980	4.8	2,647.60
Bun Boys Union 76	Baker, CA 92309	July 3, 1980	2.2	890.15
Westside Chevron	1900 W. Main Street, Barstow, CA 92311	July 8, 1980	3.6	358.10
Sands Mobil	3376 Las Vegas Blvd., Las Vegas, NV 89109	July 8, 1980	2.0	1,052.25
Mag Center Mobil	5958 Magnolia Avenue, Riverside, CA 92506	July 9, 1980	2.9	159.94
Finnell's Garage-Chevron	27-323 Hwy. 74, Perris, CA 92370	July 10, 1980	19.3	2,018.74
Cal-Neva Mobil	I-15 and Yates, Cal Neva, CA 92364	July 10, 1980	11.3	644.16
Bewley's Union	1440 E. Main, Barstow, CA 92311	July 11, 1980	2.1	296.80
Copeland's Perris Chevron	180 East Fourth Street, Perris, CA 92370	July 14, 1980	3.6	447.04
Lonnie's Arco Service	1107 W. Highland Ave., San Bernardino, CA 92405	July 14, 1980	2.9	158.21
Clark's Chevron	16000 E. Foothill Blvd., Azusa, CA 91702	July 15, 1980	2.2	6,629.07
Tribbett's North Rialto Chevron	115 East Baseline Road, Rialto, CA 92370	July 17, 1980	3.0	21,189.27
Pierson's Mobil	13653 Magnolia Ave., Corona, CA 91720	July 18, 1980	1.5	146.29
	Western District			
Andy's Shell	175 N. McKinley, Corona, CA 91720	July 18, 1980	6.4	$2,745.60
Norm's Exxon	1500 E. Main, Barstow, CA 92311	July 24, 1980	4.1	210.26
Dill's Foreign Car Service	10585 Arlington Ave., Riverside, CA 92505	July 30, 1980	8.3	2,103.07
Jack's Arco	33226 Golden State Hwy., Lebec, CA 93243	July 2, 1980	.8	583.00
El Portal Shell	14290 San Pablo, Ave., San Pablo, CA 94506	June 13, 1980	6.3	4,947.93
GDA, Inc	1787 Tribute, Sacramento, CA	Dec. 13, 1979	3.1	4,042.20
Harold Richmond's Service	2301 San Pablo Ave., Pinole, CA 94564	June 25, 1980	4.6	1,022.33
Navy Yard Shell	1696 Broadway, Vallejo, CA 94590	June 25, 1980	7.5	373.33
Civic Center Shell	13139 San Pablo Ave., San Pablo, CA	July 7, 1980	5.4	1,286.95
Weaver's Chevron	9401 Village Pkwy., San Ramon, CA 94583	July 20, 1980	22.3	16,397.70
Dunbar Oil Co. No. 8	2220 98th Avenue, Oakland, CA	July 17, 1980	4.0	918.36
Dunbar Oil Co. No. 1	26699 Mission Blvd., Hayard, CA	July 17, 1980	1.0	613.26
Dunbar Oil Co. No. 7	3295 Sierra Road, San Jose, CA	July 17, 1980	2.2	2,710.86
Dunbar Oil Co. No. 9	1335 Foothill Blvd., Oakland, CA	July 17, 1980	4.0	895.32
Dunbar Oil Co. No. 14	377 Mowry Avenue, Fremont, CA	July 17, 1980	1.9	254.09
Dunbar Oil Co. No. 19	7222 E. 14th St., Oakland, CA	July 17, 1980	(4)	100.00
Dunbar Oil Co. No. 28	2695 N. Main St., Walnut Creek, CA	July 17, 1980	3.3	219.32
Dunbar Oil Co. No. 4	46840 Warm Spring, Fremont, CA	July 17, 1980	2.9	593.01
Dunbar Oil Co. No. 2	1640 23rd Ave., San Pablo, CA	July 17, 1980	4.0	837.34
Dunbar Oil Co. No. 5	37810 Nile Blvd., Fremont, CA	July 17, 1980	6.1	1,130.27
Second and Denny Union Service	159 Denny Way, Seattle, WA 98109	July 18, 1980	5.1	2,674.28
Boston Harbor Marina	312 73rd Ave. NE., Olympia, WA 98506	July 3, 1980	5.8	100.00
Lathrop Road Shell	2431 93rd Ave., SW., Olympia, WA 98502	July 9, 1980	8.9	2,881.00
Jim's Texaco	1209 4th Ave., Marysville, WA 98270	July 30, 1980	3.3	3,243.25

[1] Stations are owned by the same individual.
[2] Discriminatory practice.
[3] Recordkeeping.
[4] Allocation audit.

[FR Doc. 80-29051 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-80-32]

Powerplant and Industrial Fuel Use Act of 1978; Guidelines on the Use of Alternate Fuels and Technologies

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is seeking public comment on whether to issue guidelines to assist petitioners for exemptions in determining the availability of alternate fuels, innovative technologies, mixtures and conservation measures (hereafter referred to as fuel technologies) that ERA considers generally appropriate for industrial and utility use under the Powerplant and Industrial Fuel Use Act of 1978 (FUA).

Owners and operators of powerplants and major fuel burning installations (MFBIs) that petition for permanent exemptions from the prohibitions on the use of petroleum and natural gas often must demonstrate that they could not use any alternate fuel or any mixture of alternate fuel and oil or gas. ERA may impose terms and conditions on petitioners receiving exemptions.

The guidelines and the process of developing them will provide a structured means of communication between the industrial and utility sectors and DOE concerning the technical and economic viability of the various alternate fuels, innovative technologies, mixtures and conservation measures. Second, the guidelines will reduce the uncertainty faced by firms subject to FUA. Firms—particularly smaller firms—will have a better understanding of the alternate fuels and technologies that should be considered in exemption petitions. Third, the guidelines can be an important mechanism for expediting the commercial use of those fuel technologies which merit consideration on technical grounds by providing vendors and other interested parties better access to industrial and utility markets for alternate fuels and technologies.

The first candidates that ERA may consider for assessment and inclusion in the guidelines are coal-oil mixtures and atmospheric fluidized bed combustion. ERA intends to issue further Notices of Inquiry on specific fuel and technology candidates for inclusion in the guidelines. Future notices will request information on and discuss in greater detail the technical and economic data and issues affecting a candidate.

DATES: Written comments are due by November 21, 1980.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-80-32, Department of Energy, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street,

N.W., Washington, D.C. 20461, 202–653–4055.
Stephen M. Stern (Office of Regulatory Policy), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, N.W., Washington, D.C. 20461, 202–653–3217.
Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461 202–653–3649.
G. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6–G–087, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202–252–2967.

SUPPLEMENTAL INFORMATION:

I. Background

FUA prohibits the use of petroleum and natural gas in a new powerplant or major fuel burning installation (MFBI) boiler unless an exemption is granted. ERA may prohibit by rule or order the use of oil or gas in new non-boiler MFBIs. ERA may also prohibit the use of oil or gas in alternate fuel capable existing powerplants and MFBIs. For existing powerplants the use of natural gas is restricted to the proportion used in 1974–76 and may not be used as a primary energy source after 1990. For existing powerplants which used an alternate fuel in 1977, oil use may be restricted to the 1977 usage. Finally, existing powerplants and MFBIs capable of using a mixture of petroleum or natural gas and alternate fuel may be prohibited from using petroleum or natural gas in excess of that needed to maintain reliability and reasonable fuel efficiency.

Exemption from the prohibitions of FUA may be obtained by petitioning for temporary or permanent exemptions. In the petition process, FUA requires that petitioners for certain exemptions examine and analyze the feasibility of using alternate fuels, fuel mixtures and, at some point in the future, fluidized bed combustion. For certain exemptions petitioners must also submit as part of their petitions a description of the conservation measures they have considered.

ERA recognizes the problems and regulatory uncertainty faced by petitioners attempting to determine which of the many fuel alternatives must be examined. For those considering a new facility or conversion of an existing facility, the development of these guidelines specifying viable fuel technologies will make available information on fuel and technology alternatives that might not have otherwise been considered. The guidelines will also provide DOE's generic assessment of the viability of the alternatives.

In the FUA interim rules ERA discussed the establishment of a process leading to the development of guidelines listing fuel technologies that would give guidance to petitioners as to which alternatives should be examined in petitions for certain exemptions (44 FR 28952, May 17, 1979). Once the guidelines are published, ERA would expect petitioners who must consider alternate fuels to examine those alternatives which apply to the petitioner's circumstances. For example, ERA might deem that atmospheric fluidized bed combustion was only viable for facilities with a heat input rate of up to 125 MMBtu's/hour; therefore, a petitioner for an exemption for a facility with a heat input rate above 125 MMBtu's/hour would not have to consider fluidized bed combustion.

Similarly, the development and publication of a matrix of viable conservation measures will also communicate to petitioners which alternatives are considered available and applicable when ERA makes its decision on which terms and conditions, if any, to impose on an exemption.

A prepetition conference provides the opportunity for a petitioner and ERA to discuss the scope and types of various fuel technologies to be addressed in the petition for exemption. If a petitioner's circumstances justify, ERA may revise the fuel technology options to be assessed in the petitioner's exemption.

Until initial guidelines containing the viable fuel technologies are published, ERA's review of the alternate fuel analyses contained in petitions for exemption will continue on a case-by-case basis.

The development of the guidelines will complement other actions taken to date under FUA designed to foster the use of various fuel technologies. For example, the definition of natural gas excludes occluded methane in coal seams and gas produced from geopressured brine, Devonian shale and tight sands for wells spudded before 1990. The mixtures exemption is available by certification for MFBIs when less than 25 percent petroleum or natural gas is used. Mixture exemptions are also available when solar energy accounts for at least 20 percent of the heat input.

II. Establishment of the Guidelines on Alternate Fuels, Fuel Mixtures, Technologies, and Conservation Measures

The fuel technologies listed in the guidelines will be those judged by DOE to be either viable at this time or expected to be viable within the next ten years (the maximum length of certain FUA temporary exemptions) for a specific application.

Methodology for Determining Technical Viability

To establish viability, DOE will first determine if a fuel technology is technically viable for a given application (i.e., has a high probability of performing reliably). A set of attributes will be developed for each fuel technology describing its applicability. For example, the attributes that DOE might need to examine, and set limits on, could include size (e.g., maximum sustained power produced), reliability (e.g., probability of failing and amount of time to repair a failure), and process requirements (e.g., precision of output temperatures, quality of working fluid, or ability to increase or decrease output rapidly). For each candidate ERA will solicit comments as to what technical attributes should be considered, the specified range of each attribute for each application, and how the ranges should be set. Comments are also requested on the measurement problems of an attribute, in particular, on the most appropriate way to measure reliability.

Methodology for Determining Economic Viability

After DOE determines that a fuel technology is technically viable for particular applications and sets limits on its attributes, DOE will determine if it is economically viable by using the methodology and set of parameters in §§ 503.6, 504.12, and 506.12 (Calculation of the Cost of using Alternate Fuels under FUA) of the FUA Regulations as appropriate. The determination of economic viability under FUA includes the costs of controlling emissions that may be subject to environmental regulations.

Using the methodologies described above for determining technical and economic viability, there are four possible findings for a fuel technology candidate:

(1) The technology is not currently economically viable,

(2) It is generally viable and the limits of its applicability are unchanged, or

(3) It is generally viable but the limits of its applicability have been reduced to a narrower range, or

(4) It will be viable at a specified time in the future based on reasonable extrapolation of technical and cost data.

Comments are solicited on the methodologies described above for making the technical and economic determinations of viability. If these methodologies are deemed to be inadequate, we request comments on more appropriate methodologies along with reasons why the alternative proposals are more appropriate.

Because many fuel technologies and the economics associated with them are only just evolving, the guidelines will expand as new candidates become commercially viable and as currently viable alternatives expand in their applicability. ERA expects to revise the guidelines periodically after public notice as changes in economics and technology occur.

Once the guidelines are published specifying the viable fuel technologies, a petitioner for an exemption will be expected to assess the applicable alternatives. Case-by-case review may continue to occur as necessary to revise the fuel technology alternatives to be assessed by the petitioner and review and petitioner's assessment.

DOE is establishing a Fuel Technology Review Committee (FTRC), comprised of knowledgeable representatives throughout the Department to provide the technical and economic assessment needed to determine which fuel technologies should be include in the guidelines. If, based upon comments received and other available information the FTRC determines that a candidate has commercial applicability under certain circumstances or conditions, the ERA Administrator, upon the recommendation of the FTRC, would include the candidate in the guidelines.

The Energy Tax Act of 1978 provides tax credits for certain energy equipment and requires the Department of Treasury to issue regulations, after consulting with DOE, prescribing performance and quality standards for energy equipment and property eligible for the tax credits. The FTRC will assess, on behalf of DOE, the performance and quality standards proposed in the Department of Treasury regulations.

In an effort to establish effective public participation, ERA believes that some system of structured public input would be desirable. Such a process might provide better input from representatives of industrial users, consumers, utilities, vendors, environmental groups and consumer advocacy groups. ERA solicits comments on the form and function of this interface, e.g., one or more technical advisory groups, periodic informal round table discussions on a given topic, workshops, etc.

III. Candidates for Inclusion in the Guidelines

There are numerous fuel technologies that merit review to determine if they are now technically and economically viable or can reasonably be expected to be viable in the next ten years (the period of certain FUA temporary exemptions).

The first candidates that ERA may consider for assessment are coal-oil mixtures and atmospheric fluidized bed combustion. For atmospheric fluidized bed combustion ERA anticipates that evaluation would be limited to industrial and smaller scale electric power applications (under about 50 megawatts electric power output).

In addition, ERA requests comments on whether coal-oil mixtures and atmospheric fluidized bed combustion should be the first two candidates and which of the following candidates should be the subject of detailed hearings or workshops and examination by the FTRC in the future:

A. Alternate Fuels/Technologies

1. Coal gasification (low, medium, and high Btu)
2. Solar applications
   a. Wind
   b. Ocean Energy Systems
   c. Solar thermal
   d. Photovoltaics
3. Municipal wastes
4. Wood and other biomass
5. Black liquor
6. Shale Oil
7. Geothermal energy
8. Coal liquefaction
9. Pollution control equipment
10. Agricultural wastes

B. Alternate Fuel Mixed With Oil or Gas

1. Municpal waste
2. Industrial by-products/wastes (including wood chips)

C. Conservation Measures

1. Recovery of waste heat in cooling fluids.
2. Recovery of waste heat in products of combustion.
3. Improved insulation around steam piping and equipment using steam or hot water.

Comments are solicited on this list. In particular, DOE would appreciate comments on specific applications for these fuel technologies and any other alternatives that should be considered.

IV. Issues for Comment

ERA invites comments and information on the following issues regarding the guidelines.

1. Is the development of a matrix of viable alternatives published as guidelines the most effective method to assess the various fuel technologies?

2. Should coal-oil mixtures and fluidized bed combustion be the first candidates to be examined to determine the extent, if any, of their technical and economic viability under FUA?

3. If not coal-oil mixtures and atmospheric fluidized bed combustion, which other fuels/technologies should be given priority consideration in this process in terms of technical/economic viability and ability to displace petroleum and natural gas?

4. ERA requests any technical information on alternative fuel technologies that will help determine which candidates should be selected initially for assessment. For coal-oil mixtures and fluidized bed combustion in particular, what technical attributes should be considered to determine technical and economic viability, what is the specific range of each attribute for each application, how should the ranges be set and how should each attribute and its range be measured and evaluated? Comments are particularly solicited on the most appropriate way to measure reliability.

5. What other uncertainties due to limited commercial use associated with coal-oil mixtures, atmospheric fluidized bed combustion and other fuel technologies should ERA be aware of in this process?

6. In the case of coal-oil mixtures what percentage of oil is necessary to maintain reliability of operation of various categories of units consistent with maintaining reasonable fuel efficiency in new facilities, existing oil-burning facilities also designed to burn coal, and existing oil-burning facilities designed only to burn oil?

7. ERA also requests cost information on coal-oil mixtures and fluidized bed combustion and other alternatives as well; such data could include cash outlays for capital, operating and fuel expenses for new facility or conversion, and data on economies of scale.

8. Should the standard of economic and technical viability be that the candidate is commercially available with conventional commercial guarantees? What other standards might be appropriate?

9. What methods can be employed to assure adequate public input in this process?

10. ERA requests comments on any other applicable alternate fuels, innovative technologies, mixtures and conservation measures that are or will be suitable for use in industrial or utility facilities subject to the Fuel Use Act.

V. Procedural Matters

Interested persons are invited to participate in the formulation of the guidelines by submitting data, views, or arguments with respect to the issues addressed in this Notice of Inquiry. Comments should be identified on the outside envelope and on the documents submitted with the designation: "Fuel Technology Guidelines—ERA–R–80–32." 15 copies should be submitted. All comments received will be available for public inspection in the ERA Office of Public Information, 2000 M Street NW., Room B–110, Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by November 21, 1980.

If you wish to submit any information or data which you consider to be confidential, you must comply with DOE's Freedom of Information regulations (10 CFR Part 1004 and 10 CFR 501.7(f)). DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

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

Issued in Washington, D.C., September 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80–29102 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–01–M

TOCO Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a Proposed Consent Order and provides an opportunity for public comment on the Proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: August 27, 1980.

COMMENTS BY: October 20, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado 80226, telephone (303) 234–3195.

SUPPLEMENTAL INFORMATION: On August 27, 1980, the Office of Enforcement of the ERA executed a Consent Order with the TOCO Corporation (TOCO) of Newcastle, Wyoming. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, ordinarily becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

TOCO is a firm engaged in the production and sale of crude oil from properties in Wyoming, and is subject to the Mandatory Petroleum Price 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 sales of crude oil from TOCO's properties, the Office of Enforcement, ERA, and TOCO entered into a Consent Order, the significant terms of which are as follows:

1. TOCO is a "crude oil producer" as that term is defined in the Mandatory Petroleum Price Regulations at 10 CFR 212.31 and, formerly at 6 CFR 150.352. Accordingly, TOCO has been subject to the price rules applicable to the production and sale of crude oil presently codified in 10 CFR Part 212, Subpart D, and specifically at § 212.73, and formerly 6 CFR 150.354.

2. The period covered by the Consent Order was September 1, 1973 through December 31, 1978.

3. During the period September 1973, through December 1978, pricing of domestic crude oil was controlled under Cost of Living Council regulations (6 CFR 150.1, *et seq.)* and successor regulations thereto (10 CFR 212.1, *et seq.),* hereinafter collectively referred to as the ("DOE regulations").

4. As a result of its audit of the subject crude producing properties, the ERA alleged that certain volumes of crude oil from such properties were sold in violation of the ceiling price rule contained in 10 CFR 212.73 (previously 6 CFR 150.354, as amended).

5. TOCO desires to resolve all disputes arising from the ERA's audit concerning compliance with all applicable pricing rules and regulations of the DOE pertaining to its production and sales of crude oil from the six (6) properties identified in the Consent Order for the period September 1, 1973 through December 31, 1978, without any further formal compliance proceeding or litigation. Similarly, the DOE desires to resolve such disputes by entering into this Consent Order, which it believes to be in the public interest.

6. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, TOCO 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 covered by this Consent Order, the sum of $560,000 on or before 10 days following the effective date of this Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset 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 portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to: Kenneth E. Merica, District Manager of Enforcement, Rocky Mountain District, Department of Energy, 1075 South Yukon Street, Lakewood, Colorado, 80226. You may obtain a free copy of this Consent Order by writing to the same address or by calling (303) 234–3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on documents you submit with the designation, "Comments on TOCO Corporation, Consent Order." We will consider all comments received by 4:30 p.m., local time, on October 20, 1980. You should identify any information on data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 4th day of September, 1980.

Kenneth E. Merica,

District Manager Rocky Mountain District of Enforcement Economic Regulatory Administration.

Concurrence:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 80-29100 Filed 9-18-80; 8:45 a.m.]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-590]

Arkansas Power & Light Co.; Filing

September 16, 1980.

The filing Company submits the following:

Take notice that on August 8, 1980, Arkansas Power and Light Company (APL) submitted for filing the Third Amendment to the Power Cooperative, Interchange and Transmission Service Agreement between APL and Arkansas Electric Cooperative Corporation (AEC). The amendment provides for the establishment of an additional point of delivery.

APL requests that the Commission waive any requirements with which APL has not already complied.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29011 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. CI80-428, et al.]

Gulf Oil Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

September 16, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 26, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI80-428 (CI65-923), B, July 15, 1980	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001	El Paso Natural Gas Co., Payton-Simpson field, Pecos County, Tex.	(1)	——
CI80-429, A, July 21, 1980	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Vermilion block 250 "D" platform, offshore Louisiana.	(2)	15.025
CI80-430 (CI63-1257), B, July 15, 1980	Blake Hamman, P.O. Box 9004, Fort Worth, Tex. 76107.	Natural Gas Pipeline Co., Boonsville Bend, Wise County, Tex.	(3)	——
CI80-431, A, July 21, 1980	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., block 498, west Cameron area, offshore Louisiana.	(4)	15.025
CI80-432, A, July 21, 1980	Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Vermilion area blocks 144 and 159, offshore Louisiana.	(4)	15.025
CI80-433, A, July 21, 1980	Mesa Petroleum Co., 1 Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189.	Trunkline Gas Co., High Island area, southwest quarter of block A-312, offshore Texas.	(5)	15.025
CI80-434, B, July 15, 1980	Crestridge Oil Co., P.O. Box 9004, Fort Worth, Tex. 76107.	Natural Gas Pipeline Co., Boonsville Bend, Jack, Wise, and Parker Counties, Tex.	(6)	——
CI80-435 (CI63-1257), B, July 15, 1980	Blake Hamman, P.O. Box 9004, Fort Worth, Tex. 76107.	Natural Gas Pipeline Co., Boonsville Bend, Wise and Parker Counties, Tex.	(7)	——
CI80-437 (G-20026), B, July 18, 1980	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Columbia Gas Transmission Corp., Ellis field, Acadia Parish, La.	(8)	——
CI80-438 (G-18437), B, July 18, 1980	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001	El Paso Natural Gas Co., Santa Rosa field, Pecos County, Tex.	(9)	——
CI80-439 (CI74-360), B, July 21, 1980	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001	Champlin Petroleum Corp., Peavine field, Oklahoma County, Okla.	(10)	——
CI80-440, A, July 21, 1980	Pogo Producing Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block A-325, east addition, south extension, offshore Texas.	(11)	14.65
CI80-441, A, July 24, 1980	Pennzoil Oil & Gas Inc., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block A-325, east addition, south extension, offshore Texas.	(11)	14.65
CI80-443 (CI72-229), B, July 22, 1980	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001	Arkansas Louisiana Gas Co., east Kiblah field, Miller County, Ark.	(12)	——
CI80-444, A, July 25, 1980	Pennzoil Oil & Gas, Inc., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block A-555, south addition, offshore Texas.	(11)	14.65
CI80-445 (G-13231), B, July 22, 1980	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Transcontinental Gas Pipe Line Corp., Raceland field, Lafourche Parish, La.	(13)	——
CI80-446, A, July 25, 1980	Pennzoil Producing Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block A-325, east addition, south extension, offshore Texas.	(11)	14.65
CI80-448, A, July 25, 1980	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., block 143, platform "B", south addition, offshore Louisiana.	(14)	15.025
CI80-449, A, July 25, 1980	Pogo Producing Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block A-555, south addition, offshore Texas.	(11)	14.65
CI80-450 (CI67-1275), B, July 23, 1980	Amerada Hess Corp., 1200 Milam St., 6th Floor, Houston, Tex. 77002.	Transwestern Pipeline Co., Gomez field, Pecos County, Tex.	(15)	——
CI80-451, A, July 29, 1980	Aminoil Development Inc., 2800 North Loop West, Houston, Tex. 77018.	Sea Robin Pipeline Co., block 256, Eugene Island area, offshore Louisiana.	(16)	15.025
CI80-452, A, July 29, 1980	Aminoil USA, Inc., 2800 North Loop West, P.O. Box 94193, Houston, Tex. 77018.	Michigan Wisconsin Pipe Line Co., block 146, south Marsh Island area, offshore Louisiana.	(17)	15.025
CI80-475, A, August 8, 1980	Forest Oil Corp., 1500 Colorado National Bldg., 950 17th St., Denver, CO 80202.	El Paso Natural Gas Co., sec. 35, township 10 north, range 20 west, Washita County, Okla.	(18)	14.65

[1]The last gas sales were completed in January, 1967 and the last Simpson well was plugged and abandoned on June 30, 1969.
[2]Applicant is filing under Gas Purchase and Sales Agreement dated July 18, 1980.
[3]This well has been non-producing since July, 1975 and is a depleted reservoir incapable of producing.
[4]Applicant is willing to accept an initial rate consistent with that prescribed by the Natural Gas Policy Act of 1978.
[5]Applicant is willing to accept the applicable rate under Section 104 of the Natural Gas Policy Act of 1978 on the Southwest Quarter of High Island Block A-312.
[6]The well is incapable of producing in interstate commerce high-pressure systems.
[7]High line pressure, load deliverability uneconomical to operate where all operations are at a loss.
[8]As of March 3, 1980, the last productive well in the dedicated acreage was plugged and abandoned. The subject contract terminated as of November 1, 1979.
[9]The only lease that Gulf had an interest in as successor to the British-American Oil Producing Company and El Paso Contract dated April 8, 1959, has expired and the last well was plugged and abandoned on March 18, 1970.
[10]No deliveries were ever made under this rate schedule. All of Gulf's wells have been plugged and abandoned. Lease was cancelled as of May 1976.
[11]Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.
[12]All of the leases covered by Gulf's contract have been cancelled and the only well in which Gulf owned an interest on these leases has been plugged and abandoned.
[13]As of March 21, 1980, the last productive well in the dedicated acreage was plugged and abandoned. All leases held by Amoco have expired.
[14]Applicant is filing under Gas Purchase and Sales Agreement dated April 22, 1980.
[15]Transwestern has released the casinghead gas from the wells because they could not economically justify connecting to same.
[16]Applicant is filing under Gas Purchase contract dated June 18, 1980.
[17]Applicant agrees to accept a certificate for the sale proposed herein conditioned upon the Commission's ceiling rates as set forth in Opinion No. 770-A, as amended by Section 104 of the Natural Gas Policy Act (NGPA).
[18]Applicant is filing under Gas Purchase Agreement dated November 1, 1979.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 80-29012 Filed 9-18-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. SA80-135]

Gulf Oil Corp.; Application for Staff Adjustment Pursuant to Section 502(c) of the NGPA

Issued August 21, 1980.

Take notice that July 2, 1980, Gulf Oil Corporation (Gulf) filed with the Federal Energy Regulatory Commission (Commission) an application for staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 USC 3301 *et seq.* and § 271.1106 of the Commission's regulations.[1]

Gulf's application states that on May 13, 1980, Gulf and Texas Gas Transmission Corporation (TGT) entered into a contract for a sale of Gulf's 100% interest in the gas produced from OCS lease numbers OCS-G 3479 and OCS-G 3481, High Island Block 517 Field, offshore Texas. Under the terms of the TGT contract, Gulf will gather the gas to a point of interconnection on the High Island Offshore System and TGT will reimburse Gulf for the cost of gathering the gas in accordance with the gathering allowance permitted by the Commission.

In negotiating the sale of the gas, Gulf states that all prospective purchasers, including TGT, initially were willing to assume the cost and responsibility for

[1]On July 2, 1980, Gulf also filed an application for production-related allowances pursuant to section 110 of the NGPA, or in the alternative, adjustment relief pursuant to section 502(c). See Docket No. GP80-105.

the construction, operation and maintenance for the gathering line, but because Gulf was obligated to deliver gas to Texas Eastern onshore at Gulf's Venice, Louisiana plant, it was necessary for Gulf to construct the gathering line and be reimbursed for its cost upon Commission approval of a gathering allowance. Gulf's application further indicates that the maximum lawful price applicable to the first sale of gas is governed by section 102 of the NGPA. Gulf states that to realize a recovery of the initial capital investment of $1,835,544 and the operating and overhead expense incurred over the life of the recoverable reserves, together with a 15 percent rate of return, Gulf is entitled to 5.81 cents per Mcf gathering allowance.

Gulf requests that the Commission grant it an adjustment pursuant to § 271.1106 to file its application for an allowance attributable to gathering which takes place on the productive lease. Gulf further states that the circumstances result in special hardship, inequity, and an unfair distribution of burdens to Gulf. The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provision of 18 CFR 1.41(e), on or before September 19, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29013 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-495]

Iowa Public Service Co.; Electric Rates: Suspension; Intervention; Hearing

Issued August 29, 1980.

On June 30, 1980, Iowa Public Service Company (IPS) submitted for filing a proposed increase in rates [1] to its fourteen wholesale customers (Customers).[2] IPS proposes an increase in annual revenues of approximately $649,000 (16.2%) based on the twelve month period ending December 31, 1979 (Period I). IPS indicates in its transmittal letter that it held pre-filing conferences with the Customers on May 21 and June 11, 1980, and that the Customers support the submittal. IPS requests that its effective date be deferred until September 1, 1980, in lieu of August 29, 1980 (sixty days after filing) to accommodate the Customers.

Notice of the filing was issued on July 8, 1980, with comments, protests and petitions to intervene due on or before July 25, 1980. On July 29, 1980, the Customers petitioned to intervene. The Customers state that they do not request a formal hearing, that they support IPS' submittal, and that the proposed increase should be approved as requested.

Discussion

Initially, we find that participation by Customers in this proceeding may be in the public interest and that good cause exists to grant their untimely petition to intervene. Therefore, we shall permit them to intervene in this docket.

Despite the acquiescence of the Customers to the instant rate increase proposal, our analysis indicates that IPS' proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, suspend them as ordered below, and establish hearing procedures.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[3] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful." [4] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. Iowa's submittal indicates that it conducted two pre-filing meetings with its customers to discuss the expected filing. Each of these customers has consented to the proposed rate change including the proposed effective date. Under the circumstances, we believe that we should exercise our discretion to suspend the rates for only one day, permitting the rates to take effect on September 2, 1980, subject to refund.[5]

The Commission orders: (A) Iowa Public Service Company's submittal is hereby accepted for filing and suspended for one day to become effective September 2, 1980, subject to refund.

(B) Customers are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the

[1] See Attachment A for rate schedule designations.

[2] Lincoln Light and Power Company and the Iowa Cities of Aplington, Auburn, Breda, Denver, Estherville, Fonda, Hudson, Lakeview, Livermore, Pocahontas, Rockford, Sergent Bluff, and Wall Lake.

[3] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*, ——— F. 2d ——— (D.C. Cir. May 30, 1980).

[4] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

[5] The Commission staff's preliminary analysis indicates that the proposed rates will result in excess revenues. The showing of such excess might have been mitigated, at least in part, if Iowa had elected to support its rates on the basis of estimated Period II data rather than historical Period I information. While this election was within the discretion of the company, in the instant case, where the customers have consented to the proposed increase, we believe that production of reliable future cost estimates by the company might assist in forthcoming settlement discussions.

Federal Power Act; *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petition to intervene; and *provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a formal settlement conference in this proceeding to be held within 10 days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Commission staff shall serve top sheets in this proceeding on or before November 20, 1980.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Iowa Public Service Company Rate Schedule Designations Docket No. ER80–495

Dated: June 30, 1980.
Filed: June 30, 1980.

FPC Electric Tariff—Original Vol. No. 1

(1) Seventh Revised Sheet No. 1 (Supersedes Sixth Revised Sheet No. 1), List of Customers, Applicable Energy Charge, etc.

(2) Third Revised Sheet No. 2 (Supersedes Second Revised Sheet No. 2), Energy Cost Adjustment Clause.

(3) Second Revised Sheet No. 3 (Supersedes First Revised Sheet No. 3), Energy Cost Adjustment Clause.

(4) Original Sheet No. 3–A (Supersedes Exhibit A to 1st Revised Sheet No. 3), page 3 of 3, Statement O, Twelve Months ending 12/31/79.

[FR Doc. 80–29006 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TA80–2–25 (PGA80–3, IPR80–3, AP80–2, LFUT80–2, TT80–2 and ST80–2)]

Mississippi River Transmission Corp. Pipeline Rates; Order Accepting for Filing and Suspending Proposed Tariff Sheets, Subject to Refund

Issued August 29, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon and Matthew Holden, Jr.

On July 31, 1980, Mississippi River Transmission Corporation (MRT) tendered for filing Seventy-sixth Revised Tariff Sheet No. 3A and Second Revised Tariff Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets have a proposed effective date of September 1, 1980, and reflect the following adjustments: (1) a $5,713,068 (2.71¢ per Mcf) increase in the cost of gas purchased from various producer suppliers; many of these producer increases were escalated pursuant to area rate clauses; (2) a $24,533,026 (positive 12.39¢ per Mcf in the commodity portion and negative 4.8¢ per Mcf in the demand portion of the rates) increase in the cost of gas purchased from pipeline suppliers; (3) a $1.225 per Mcf surcharge increase in MRT's Rate Schedule CD–1 demand rate and a 25.95¢ per Mcf surcharge increase in MRT's Rate Schedule CD–1 and PI–1 commodity rates; (4) no change in the .04¢ per Mcf LFUT surcharge; (5) a .24¢ per Mcf decrease in the Advance Payment Adjustment pursuant to Article IV of MRT's Stipulation and Agreement at Docket No. RP78–77; (6) a .06¢ per Mcf decrease in the Storage Loss Amortization tracking adjustment applicable to the commodity portion of the base tariff rates pursuant to Article VII of MRT's Stipulation and Agreement in Docket No. RP78–77; and (7) a 19.4¢ per Mcf increase in the demand component and a .63¢ per Mcf decrease in the commodity component of the Transportation and Compression tracking adjustment applied to the base tariff rates pursuant to Articles V and VI of MRT's Stipulation and Agreement.

Public notice of MRT's filing was issued on August 11, 1980, providing for protests or petitions to intervene to be filed on or before August 29, 1980.

Based upon a review of MRT's filing the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept MRT's filing, suspend the effective date of the proposed tariff, and make them subject to refund and the conditions set forth below, and set the matter for hearing.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[1] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that there is good cause to believe that the increase may be excessive or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby . . . declared unlawful."[2] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. When the rate change filed is pursuant to Commission authorized tracking authority it is precisely the type of

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[1] *Connecticut Light & Power Company* v. *Federal Energy Regulatory Commission,* —— F. 2d —— (D.C. Cir. May 30, 1980).

[2] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

circumstance which justifies a shortened suspension period. Accordingly, we believe we should exercise our discretion to suspend the rate, but permit the rate to take effect September 1, 1980, subject to refund.

The Commission notes that MRT's filing includes increases in purchased gas costs pursuant to area rate clauses in the contracts between MRT and its producers. The Commission's acceptance of this filing shall not constitute a determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order 23, as amended by subsequent orders, in Docket No. RM79–22. Should it be ultimately determined that a producer is not entitled to an NGPA price under an area rate clause, the refunds made by the producer to the pipeline shall be flowed through to ratepayers in accordance with the procedures prescribed in the pipeline's PGA clause.

MRT's filing also reflects increases due to costs associated with purchases of Section 107 gas from affiliated production priced at NGPA levels. The Commission is unable to determine from the information submitted herein whether the proposed purchase price assigned to its affiliate production priced at NGPA levels satisfies the affiliated entities limitation set forth in Section 601(b)(1)(E) of the NGPA. That Section provides that in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid shall be deemed just and reasonable if in addition to not exceeding the applicable maximum lawful price ceiling, such amount does not exceed the amount paid in comparable first sale transactions between persons not affiliated with such pipeline. Accordingly, the Commission's acceptance of this increase is conditioned upon MRT's filing within thirty days data demonstrating that its purchases from its affiliates meet the affiliated entities test and is subject further to Commission review of that data.

The Commission Orders:

(A) MRT's Seventy-sixth Revised Tariff Sheet No. 3A and Second Revised Tariff Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1, are accepted for filing, suspended, and may become effective on September 1, 1980, subject to refund in the manner prescribed by the Natural Gas Act, and as hereinafter conditioned.

(B) MRT shall file data within thirty days of the issuance of this order to show that the pricing of gas purchased from its affiliates is in accordance with Section 601(b)(1)(E) of the NGPA.

(C) The cost associated with MRT's purchases from its producer affiliates shall be collected subject to refund and subject to: (1) MRT's filing within thirty days of the issuance of this order the data called for in Paragraph (B) above, and (2) review of such data by the Commission to determine what further action is appropriate.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29007 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-51]

Northern Natural Gas Co., Division of InterNorth, Inc.; Certificate Transportation; Order Establishing Hearing Procedures and Granting Interventions

Issued August 21, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On October 26, 1979, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern),[1] filed in Docket No. CP80–51, as supplemented on November 20, 1979, and December 18, 1979, an application for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and related natural gas facilities in Zavala County, Texas, all as more fully set forth in the application.

Northern proposes to construct and operate 163 miles of 16-inch and 6 miles of 12-inch pipeline, 9000 H.P. of compression and appurtenant facilities. Said facilities are designed to facilitate the transportation of natural gas purchased from an area of new supply in the Spillar-Hasket and Pryor Ranch acreages in Zavala County to Northern's main line in Eldorado, Texas. Northern states that its gas purchase contract with Dulce Company resulted in the dedication in the aggregate of 32,000 acres of gas reserves. Northern further states that the total cost of the proposed facilities is estimated to be $59,348,600, which will be financed by cash on hand or short-term borrowings.

The application states that drilling activity has resulted in total estimated reserves of 208 Bcf, of which 109 Bcf are proved. Such reserves, when attached to Northern's system, are to be used to meet present system requirements and to offset the normal decline experienced in attached reserves. Northern further alleges that the existence of a large diameter pipeline in the area will encourage future development of Zavala County and along the route of the new pipeline.

After due notice of the application in Docket No. CP80–51 by publication in the **Federal Register** on November 11, 1979 (44 FR 68016), timely petitions to intervene have been filed by Iowa Power and Light Company, Iowa-Illinois Gas and Electric Company, Minnesota Gas Company, Metropolitan Utilities District of Omaha, Iowa Public Service Company, Iowa Southern Utilities Company, and Lo-Vaca Gathering Company, which company has changed its name to Valero Transmission Company (Valero). Valero subsequently twice supplemented its petition to intervene to allege that it could provide the same or superior transmission service as that contemplated in the application, without the necessity and expense to interstate consumers for constructing the proposed facilities. Valero alleged that it had or soon would have in place facilities sufficient to transport what reserves Valero perceived Northern to have acquired and that it could move such volumes to market at a fraction of the cost of the proposed Northern facilities. Northern, on April 15, 1980, filed an answer to the two supplements to Valero's petition to intervene, stating that in the absence of a competing application by Valero, or even a specific proposal as an alternative, the Commission should reject Valero's opposition and certificate Northern's proposal. Thereafter, an informal technical conference was convened in this docket, at which time the parties discussed, *inter alia*, the possibility of resolving Valero's opposition through compromise. Settlement apparently was not reached at that time, because on June 13, 1980, Northern filed a motion for prompt issuance of a certificate of public convenience and necessity or, in the alternative, for prompt convening of a public hearing. Valero filed on June 17, 1980, a more detailed proposal for three possible alternatives, and Northern then filed on June 25, 1980, a supplement to its outstanding motion, renewing its prayer for relief and rejecting the Valero proposals. Valero filed a further response on July 15, 1980.

As this recitation indicates, the parties disagree as to whether the Commission should deny certification of

[1] Northern, a Delaware Corporation, having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by Commission order issued April 6, 1943, in Docket No. G–280 (3 FPC 967).

Northern's proposed new pipeline for the reason that a superior alternative exists for transporting the subject gas. Further, we believe that the adequacy of the gas supply supporting Northern's proposed new pipeline is in question. In these circumstances, the Commission shall set this matter for formal hearing, with the expectation that the parties will make every effort to reach a settlement at the prehearing conference provided for herein.

In any formal hearing that may result in this matter, the Commission would expect Valero to demonstrate with specificity the alternative transportation proposals that it believes exist with respect to Northern's proposed new line. In particular, Valero should show (1) the excess capacity of its intrastate pipeline system that would be available to provide transportation service for Northern; (2) what, if any, new pipeline facilities would be required to provide such service; and (3) the cost to Northern for such transportation service.

On the question of gas supply supporting the proposed new pipeline Northern should, in particular, demonstrate its total supply projection with respect to the subject production area (including proven and potential reserves) and its projected deliverability schedule with respect to the proposed new pipeline.

As discussed previously, the Commission is setting this matter for prehearing conference at which settlement should be seriously discussed. The Commission would further note that this case may be the proper subject of a motion for the assignment of a settlement judge pursuant to Section 1.18 of the Rules of Practice and Procedure.[2] Failing settlement, the matter should be set for formal hearing.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application in this docket be set forth for formal hearing in accordance with the procedures hereinafter detailed.

(2) The participation of the petitioners to intervene may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part I), and the Regulations under the Natural Gas Act (18 CFR, Chapter I, Subchapter (e)), a prehearing conference shall be held on September 16, 1980, commencing at 10 a.m. in a Hearing Room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, to discuss procedures and the clarification of issues concerning the application set forth in this Order.

(B) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority 18 CFR, Section 3.5(d)), shall preside at the Prehearing Conference and subsequent hearing, if needed in this proceeding, with authority to establish and change all procedural dates and to rule on all motions (with the exception of the motions to consolidate or sever), as provided by the Rules of Practice and Procedure.

(C) All petitioners to intervene are permitted to intervene in the instant proceeding, subject to the rules and regulations of the Commission, *Provided, however,* that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29008 Filed 9-18-80; 8:45 am]

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[2] As amended on June 23, 1980, in Order No. 90, Docket No. RM80-57.

[Docket Nos. ER80-484 and ER80-485]

Pennsylvania-New Jersey-Maryland Interconnection and Virginia Electric Power Co.; Order Accepting for Filing and Suspending Revised Interconnection Agreement, Waiving Regulations, Initiating Hearing, and Terminating Prior Docket

Issued August 21, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On June 24, 1980, Pennsylvania-New Jersey-Maryland Interconnection (PJM) [1] and Virginia Electric Power Company (VEPCO) filed certain revisions to their Interconnection Agreement.[2] The proposed revisions in Docket No. ER80-484 include: (1) an increase in the demand charge for fuel conservation energy; (2) a decrease in the related third party transmission demand charge; and (3) the replacement of percentage adders with fixed adders. In Docket No. ER80-485, the proposed changes consist of: (1) an increase in demand charges for emergency power, short-term power, and related third party transmission service; and (2) replacement of percentage adders with fixed adders. These submittals have been tendered in lieu of additional materials requested of the parties by a February 12, 1980 deficiency letter issued with reference to a previous filing by the parties in Docket No. ER80-189. In light of the current submittals, the parties now request termination of Docket No. ER80-189.

Public notice of the filings in Docket Nos. ER80-484 and ER80-485 was issued on July 1, 1980, with comments required to be filed on or before July 21, 1980. No comments, protests, or petitions to intervene have been filed.

Discussion

The proposed revisions to the fuel conservation service schedule would increase the demand charge for fuel conservation energy from 3.0 mills/kWh to 5.0 mills/kWh and would decrease the third party fuel conservation transmission demand charges from 1.75 mills/kWh to 1.3 mills/kWh and 1.1 mills/kWh for PJM and VEPCO, respectively. We recently approved identical rates for PJM in an order issued on July 31, 1980, in Docket Nos. ER80-427 *et al.* ("Accepting For Filing Revised Rates For Interchange Services And Terminating Dockets"). For the reasons stated in our prior order, as to PJM, we again find these rates to be adequately supported as to PJM.

Circumstances differ, however, with respect to VEPCO. VEPCO has submitted a non-levelized cost analysis which purports to support a fuel conservation demand charge of 5.17 mills/kWh and a third party transmission demand charge of 1.09 mills/kWh, based on an average system production net investment (including nuclear and pumped storage hydrogenerating facilities) of $191.38/kW, an average transmission net investment of $58.53/kW, and annual production and transmission fixed charge rates of 18.67% and 16.32%, respectively, applied to average net investment. This study includes a 9.6% rate of return with a return on equity of 14%.

[1] See Attachment for rate schedule designations.

[2] PJM member companies include: Public Service Electric and Gas Company, Philadelphia Electric Company, Pennsylvania Power and Light Company, Baltimore Gas and Electric Company, Potomac Electric Power Company, Jersey Central Power and Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company.

As we stated in our July 31 order in Docket Nos. ER80–427, *et al.*, the use of average system production investment in support of a fuel conservation demand charge is improper since it does not accurately track the demand-related costs of the units assigned to interchange service. We also observed that this methodology is inconsistent with the Statement of Principles issued on March 28, 1980, in Docket Nos. ER78–229, *et al.*,[3] which require that fuel conservation demand charges reflect the annualized cost of the units expected to provide the service weighted by relative expected hours of use. Our analysis, based upon additional information provided by the Commission staff,[4] indicates that VEPCO's proposed fuel conservation demand charge may produce excess revenues. The third party fuel conservation transmission demand charge, on the other hand, does appear to be cost justified.

We note that the proposed fuel conservation schedules contain language describing dispatch priorty and replacement pricing methodology which is generallly consistent with the above-mentioned Statement of Principles in Docket Nos. ER78–229, *et al.* As in Docket Nos. ER80–427, *et al.*, this language is quite broad; however, we find that these descriptions are acceptable.

With respect to the proposed short-term demand charges, PJM and VEPCO propose to increase these charges from 0.50/kW/week to $0.85/kW/week. The parties further propose to increase related third party transmission demand charges from $0.125/kW/week to $0.24/kW/week. We again note that the same charges were previously approved for PJM in our order of July 31, 1980, in Docket Nos. ER80–427, *et al.*, and we continue to believe that these charges are acceptable as to PJM. Although the short-term third party transmission demand charge appears reasonable for VEPCO, as in the case of the fuel conservation demand charges, we cannot conclude that the proposed $0.85/kW/week demand charge for short-term power is reasonable as applied to VEPCO.

The instant filings also propose to revise the demand charges for extended emergency service[5] from $35/MW/day (1.5 mills/kWh) to 5 mills/kWh. Third party transmission demand charges for this service would be increased from $21/MW/day (.9 mills/kWh) to 1.1 mills/kWh and 1.3 mills/kWh for VEPCO and PJM, respectively. These proposed charges are the same as those requested for fuel conservation energy and related third party transmission. As discussed previously, the charges proposed for PJM are identical to those approved for PJM in Docket Nos. ER80–427, *et al.* Accordingly, with respect to PJM, we find that both the extended emergency demand charge and the related third party transmission charge are reasonable. However, in the case of VEPCO, we are able to conclude only that the third party transmission charge is justified.

The parties have also proposed to replace traditional percentage adders, applied to incremental energy costs or purchased energy price, with fixed adders. We find that the fixed adders proposed by PJM and VEPCO are consistent with the Commission's proposed rulemaking in Docket No. EM79–29, issued on April 4, 1979, with Order No. 84, issued on May 7, 1980, in Docket No. RM79–29, and with the Statement of Principles, issued on March 28, 1980, in Docket Nos. ER78–229, *et al.* The proposed adders are below 2 mills/kWh for interchange service that is generated and sold directly to purchasing parties, and below 1 mill/kWh for third party transmission service.

As indicated above, PJM and VEPCO have submitted the instant filings in lieu of further submittals in Docket No. ER80–189. They have therefore requested termination of the prior docket. Under the circumstances, it is appropriate, and in the public interest, to allow withdrawal of the pleadings in Docket No. ER80–189 and to terminate that proceeding.

PJM and VEPCO have further requested waiver of the 60–day statutory notice requirement of the Federal Power Act, acceptance of these filings without suspension and hearing, and an effective date for both filings of August 1, 1980. For the reasons previously stated, we shall grant these requests insofar as they apply to PJM, thereby permitting the PJM rates to become effective August 1, 1980. However, VEPCO's proposed demand charges for extended emergency service, short-term power, and fuel conservation energy have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, with respect to the rate proposed for VEPCO, we shall waive the notice requirements and accept the submittal for filing, but we shall suspend each of the proposed rates, other than those applicable to third party transmission services, as ordered below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[6] We have done this as a predicate to our acting on this matter.

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balancing of producer and consumer interests, their primary purpose is to protect the consumer against excessive rates and charges. Hence, it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

This decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* [emphasis added] rate or charge that is not just and reasonable is hereby declared unlawful."[7] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here. As we have noted, our analysis reveals that certain of VEPCO's proposed rates may produce excess revenues. However, the impact of these excess revenues should

[3] "Order Establishing Principles for Settlement of Fuel Conservation Energy Rate Schedule Proceedings and Providing for Filings."

[4] In Docket Nos. ER80–427, *et al.* (order issued July 31, 1980, slip at 4), we noted some dissatisfaction with the cost support supplied by the interested utilities and questioned the degree of compliance with paragraph (2) of the March 28, 1980 Statement of Principles. Having once expressed that concern for future reference, there should be no need to reiterate our caution in its entirety.

[5] Extended emergency service is defined as emergency service in excess of 48 hours.

[6] *Connecticut Light & Power Co.* v. *F.E.R.C.*, No. 78–2312, —— F. 2d —— (D.C. Cir. May 30, 1980).

[7] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

be mitigated, in part, by the replacement of percentage adders with fixed adders and the resulting reduction in energy charges for both self-generated and third party energy transactions. Moreover, the services at issue lend themselves to a limited period of suspension. Accordingly, we believe we should exercise our discretion to suspend VEPCO's proposed rates, other than those applicable to third party transmission services, for one day following the proposed effective date, permitting them to take effect on August 2, 1980, subject to refund.

We shall also order a hearing to be convened in this proceeding. However, the scope of the hearing shall be confined to the limited issue of the proper development of the production component of VEPCO's proposed demand charges for extended emergency power, short-term power, and fuel conservation energy.

The Commission orders:

(A) The request for waiver of the Commission's notice requirements is hereby granted.

(B) The revisions to the PJM/VEPCO Interconnection Agreement tendered in Docket Nos. ER80–484 and ER80–485—other than the proposed demand charges applicable to VEPCO for extended emergency power, short-term power, and fuel conservation energy—are hereby accepted for filing to become effective on August 1, 1980.

(C) The proposed demand charges applicable to VEPCO for extended emergency power, short-term power, and fuel conservation energy are hereby accepted for filing and suspended for one day to become effective, subject to refund, on August 2, 1980.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act, and by the Federal Power Act and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by VEPCO in this instant docket. The scope of this investigation shall be limited to the issue of the proper development of the production component of VEPCO's proposed demand charges for short-term power, extended emergency power, and fuel conservation energy.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference within 15 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. This conference shall be held for the purposes of expediting discovery and establishing a procedural schedule, including a date for the timely submission of a case-in-chief by VEPCO. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(F) The request to terminate Docket No. ER80–189 is hereby granted and that docket is hereby terminated.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hall voted present.

Kenneth F. Plumb,

Secretary.

Attachment

Pennsylvania-New Jersey-Maryland Interconnection Docket Nos. ER80–484 and ER80–485

Filed: July 24, 1980.
Dated: June 18, 1980.
Nature: Amendments to Interconnection Agreement.

Rate Schedules Designations and Description

(1) Supplement No. 9 (Supersedes Supplement No. 5)—Schedule 5.04
(2) Supplement No. 10 (Supersedes Supplement No. 7)—Schedule 7.04
(3) Supplement No. 11 (Supersedes Supplement No. 2)—Schedule 8.03
(4) Supplement No. 12 (Supersedes Supplement No. 8)—Schedule 9.03

The above Supplements apply to the following rate schedules:

Virginia Electric & Power Company, FPC No. 73
Public Service Electric and Gas Company, FPC No. 37
Philadelphia Electric Company, FPC No. 28
Pennsylvania Power and Light Company, FPC No. 43
Baltimore Gas and Electric Company, FPC No. 18
Potomac Electric Power Company, FPC No. 23
Jersey Central Power and Light Company, FPC No. 23
Metropolitan Edison Company, FPC No. 28
Pennsylvania Electric Company, FPC No. 48

[FR Doc. 80–29009 Filed 9–18–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket Nos. RA80–5; RA80–82]

San Ann Service, Inc.; Adjustment Consolidation; Order Consolidating Proceedings and Designating Presiding Officer

Issued August 22, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On February 4, 1980 San Ann Service, Inc. (San Ann) and Kerr-McGee Corporation each filed petitions for review (designated Docket No. RA80–5) of a decision and order issued by the Department of Energy (DOE) on December 5, 1979. Docket No. RA80–5 involves review of the denial of a request filed by San Ann for exception relief for the period July–September 1979. On July 15, 1980 San Ann filed a second petition for review (designated Docket No. RA80–82) of a decision and order issued by DOE on July 3, 1980. Docket No. RA80–82 involves review of the denial of a request by San Ann for the same type of relief requested in Docket No. RA80–5 but for the period October–November 1979. San Ann requested in its second petition that the two proceedings be consolidated. None of the participants in the two proceedings has objected to the motion to consolidate.

Under § 1.20(b) of the Commission's Rules of Practice and Procedure the Commission may order proceedings involving a common question of law or fact to be consolidated for hearing on any or all matters at issue in such proceedings. Docket Nos. RA80–5 and RA80–82 involve requests for the same type of exception relief on the same grounds for two different but consecutive periods of time. DOE denied relief in each case on the same grounds, and San Ann's petition in the second docket incorporates in full its petition in the first docket. Since the two dockets clearly involve common issues of fact and law relating to the denial of exception relief, the two proceedings should be consolidated for purposes of hearing and decision on all matters at issue.

In addition, Mr. Dwight C. Alpern, the presiding officer for Docket No. RA80–5, should be designated as the presiding officer for the consolidated proceedings.

The Commission orders:

(A) Pursuant to § 1.20(b) of the Commission's Rules of Practice and Procedure, the proceedings in Docket Nos. RA80–5 and RA80–82 are consolidated for hearing and decision on all matters at issue. Mr. Dwight C. Alpern is designated presiding officer for the consolidated proceedings.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29010 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-660]

Southwestern Electric Power Co.; Filing

September 16, 1980.

The filing Company submits the following:

Take notice that Southwestern Electric Power Company on August 13, 1980, tendered for filing a letter agreement dated August 5, 1980, revising Section 4.1(c) of Service Schedule ES dated March 23, 1971, as amended by letter agreement dated June 19, 1974, also identified as SWEPCO Supplement No. 1 to Supplement No. 6 to Rate Schedule FERC No. 59 and Central Louisiana Electric Company Supplement No. 6 to Rate Schedule FERC No. 4.

The Company indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29014 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-141]

Tamko Asphalt Products, Inc.; Application for Adjustment

Issued August 21, 1980.

Take notice that on July 29, 1980, Tamko Asphalt Products, Inc. (Applicant), P.O. Box 1404, 601 N. High St., Joplin, Missouri 64801, filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301 *et seq.*) wherein the Applicant seeks relief from certain incremental pricing regulations promulgated in Order No. 49-A in Docket No. RM79-14 issued December 27, 1979 (45 FR 21, January 1, 1980).

Applicant states that it paid an incremental pricing surcharge in January 1980, to its natural gas supplier (Kansas-Nebraska Natural Gas Company, Inc.) pursuant to the incremental pricing provisions of Title II of the NGPA and the regulations issued thereunder. Applicant states that its particular industry became exempt from incremental pricing on December 26, 1979, pursuant to Order No. 49-A but that Applicant only became aware of its exemption as of mid-February 1980, after having paid an incremental pricing surcharge for the month of January 1980. Applicant therefore requests an adjustment to permit the effective date of its February filing of its exemption affidavit to take retroactive effect as of January 1980, and thereby enable Applicant to receive a refund of the surcharge it paid in January 1980.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before October 6, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29015 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[ER80-665]

Wisconsin Electric Power Co.; Filing

September 16, 1980.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company on August 13, 1980, tendered for filing an amendment to the Interconnection Agreement between Wisconsin Electric Power Company and Madison Gas and Electric Company dated June 3, 1965, designated Wisconsin Electric Rate Schedule FERC No. 27 and Madison Gas Rate Schedule FERC No. 1.

The Company indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29016 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-667]

Wisconsin Power and Light Co.; Filing Revised Service Schedules

September 16, 1980.

The filing Company submits the following:

Take notice that Wisconsin Power and Light Company (WPL) tendered for filing on August 14, 1980 revised service schedules to the Interconnection Agreement between WPL and Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin).

The revised service schedules A—Emergency Energy, C—Maintenance Energy, D—General Purpose Energy, E—Short Term Power and F—Limited Term Power, applicable to the existing WPL-NSP(MN)/NSP(WI) Interconnection Agreement provide for an energy transmission rate between WPL and NSP(MN)/NSP(WI) in accordance with the requirements of Order No. 84 of the Federal Energy Regulatory Commission in Docket No. RM79-29. WPL and NSP(MN)/NSP(WI) maintain that it is not practical to estimate with any degree of accuracy the quantities of energy which will be exchanged under the applicable energy transmission rate.

WPL states that signed duplicate originals of the revised service schedules have been provided to NSP(MN)/NSP(WI) and that a copy of this filing has been provided to the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's

rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be on file on or before September 26, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-29017 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearing and Appeals

Objection To Proposed Remedial Orders Filed; Week of June 30 through July 4, 1980

During the week of June 30 through July 4, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 C.F.R. § 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

September 15, 1980.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

Entex Petroleum, Inc., Oklahoma City, Okla., BRO-1252, Crude Oil

On July 1, 1980, Entex Petroleum, Inc. filed a Notice of Objection to a Supplemental Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on June 17, 1980. In the PRO the Southwest District found that during calendar year 1974 Entex violated Section 212.73 of the DOE Mandatory Price Regulations by selling all the "old" crude oil produced from two leases which it operated at prices in excess of the lower tier ceiling price.

According to the PRO, the Entex violation resulted in $21,582 of overcharges.

[FR Doc. 80-29101 Filed 9-18-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1610-5]

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 September 8, 1980 to September 12, 1980.

Review Periods: The 45-day review period for draft EIS's listed in this notice is calculated from September 19, 1980 and will end on November 3, 1980. The 30-day review period for final EIS's as calculated from September 19, 1980 will end on October 20, 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 EISS' 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 September 8, 1980 to September 12, 1980 the 30-day review period will be calculated from September 19, 1980. The review period will end on October 20, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of September 8, 1980 to September 12, 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 has 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 of 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 availablity of the EIS in the **Federal Register** and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: September 16, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I—EIS's Filed With EPA During The Week of September 8 Through 12, 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 Administration Building, Washington, D.C. 20250 (202) 447-3965.

Forest Service

Draft

Alpine Lakes Area Management Plan, several counties in Washington, September 12: Proposed is a management plan for the Alpine Lakes Area within the Mt. Baker-Snoqualmie and Wenatchee National Forests in Chelan, King, Kittitas and Snohomish Counties, Washington. The preferred alternative would permit an increase of 73 percent in wilderness recreation and opportunities. Modern rustic camping facilities would be expanded and a variety of both motorized and non-motorized dispersed recreation areas provided. Wood fiber production would occur on the most suitable lands and could result in a percent increase in outputs. (EIS order No. 800694.)

Soil Conservation Service

Draft

Washington Mountain Brook Watershed, Berkshire County, Mass., September 11: Proposed is the Washington Mountain Brook

Watershed Project for the purposes of flood prevention, streambank stabilization, sediment control, recreation and municipal water supply storage in Berkshire County, Massachusetts. The plan would consist of: (1) Conservation land treatment; (2) Three multiple-purpose reservoirs, and (3) Channel work. The channel work includes: (1) 50 miles of concrete channel, (2) removal of sediment and debris, (3) Installation of bridge wingwalls, and (4) Construction of concrete sediment control facilities. (USDA–SCS–EIS–WS–(ADM)–80–01–(D)–MA) (EIS order No. 800677.)

Final

East Carroll watershed Flood Protection, East Carroll, La., September 11: Proposed is a watershed protection and flood prevention plan for the East Carroll watershed in East Carroll Parish, Louisiana. The planned works of improvement include conservation land treatment, 239 miles of channel work, 6 grade stabilization structures, 2 structures for water control (fixed-crest weirs), creation of a 27 acre mitigation area, retention of 377 acres, and establishment of bottomland hardwoods on 4 acres of openland. The channel work will involve clearing on 20 miles of existing channels, 1 mile of new channel construction, and enlargement of 218 miles of existing channels by excavating. (USDA–SCS–EIS–WS–(ADM)–80–1–(F)–(LA)). Comments made by: USDA, EPA, DOI, DOC, HEW, AHP, USA, DOT, State Agencies. (EIS Order No. 800682.)

Fourche Creek watershed, Ripley County, Mo., and Randolph County, Ark., September 8: Proposed is a multipurpose project for the Fourche Creek watershed in Randolph County, Arkansas and Ripley County, Missouri. Project measures include land treatment, channels, dams and water-based recreational facilities. The alternatives consider: (1) Land use changes, land treatment and recreational facilities; (2) land treatment and recreational facilities; and (3) no action. Comments made by: COE, DOI, DOT, USDA, EPA, FERC, AHP, State agencies, individuals. (EIS Order No. 800670.)

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350. (202) 697–3689.

Draft

Feral animal removal, San Clemente Island, Calif., September 11: Proposed is a feral animal removal program for San Clemente Island, California. The animals considered for removal are pigs, cats, goats and mule deer. The removal alternatives are: (1) Live trapping, (2) herding with dogs, (3) sport hunting, (4) professional ground shooting, (5) aerial shooting, (6) use of tranquilizing equipment, (7) predator use, (8) chemical sterilants, (9) poison, (10) temporary cross-island fence, and (11) ranching. (EIS Order No. 800681.)

Final Supplement

Kings Bay FBM submarine support base, Camden County, Ga., September 11: Proposed is the construction and operation of an Atlantic Coast strategic submarine base at the current naval submarine support base, Kings Bay, Camden County, Georgia. The action also includes strategic and defensive weapons storage and transfer, refit industrial support, complete pipeline refresher and off-crew training, waterfront support, possible relocation of some waterfront facilities, administrative and personnel support and on-base housing. Also considered is future expansion to accommodate two other squadrons. This Statement Supplements final EIS, No. 771513. Filed 12/12/77. Comments made by: DHH, DOI, COE, DOT, DOC, EPA, OPM, USDA, State and Local agencies. (EIS Order No. 800683.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn.: DEAN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Big five flood control study, Union and Alexander Counties, Ill., September 12: Proposed is a flood control plan for five drainage districts in Alexander and Union Counties, Illinois. The preferred alternative involves the following measures: (1) two pumps, (2) one gravity drain, (3) 18,600 lineal feet of ditching, (4) two diversion structures, (5) purchase and check dams, and (6) various mitigation measures. In addition to no action, four other alternatives are considered. (St. Louis District.) (EIS Order No. 800692.)

Krebs Lake navigation improvements, Pascagoula, Jackson County, Miss., September 11: Proposed are navigation improvements for Krebs Lake, a bayou extending from the Pascagoula River, between the cities of Moss Point and Pascagoula, Jackson County, Mississippi. The alternatives consider: (1) no action, (2) construction of a channel of minimum widths of 100 feet from deep water in the Pascagoula River, and (3) same as 2 above with an 80 foot wide channel upstream. (Mobile District.) (EIS Order No. 800680.)

Swatara Creek local flood protection, Schuylkill County, Pa., September 12: Proposed is a local flood protection plan for Swatara Creek in the borough of Pine Grove, Schuylkill County, Pennsylvania. The plan consists of widening the existing stream bottom to a minimum width of 100 feet for a distance of 6,800 lineal feet. (Baltimore District.) (EIS Order No. 800691.)

Final

Mt. Saint Helens Recovery Operation, Cowlitz County, Wash., and Columbia County, Oreg., Sept. 12: Proposed are the Mt. Saint Helens recovery operations for Cowlitz County, Washington and Columbia County, Oregon. The operations will include: (1) reestablishment of navigable channels in the Columbia and Cowlitz Rivers, (2) removal of sediment and debris deposits in the Cowlitz River and Toutle River, and (3) construction of two debris retaining and associated catch basins on the Toutle River. The cooperating agencies are EPA, FWS, DOC, AFS, and SCS. (Portland District.) Comments made by EPA, DOI, DOC, USDA, DOT, DOE, HHS, State agencies, groups. (EIS Order No. 800686.) A waiver has been granted for the above EIS. (See appendix II.)

Department of Energy

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, DC 20585, (202) 252–4600.

Draft

Naval oil shale reserves development options, Garfield County, Colo., Sept. 12: Proposed are development policy options for the naval oil shale reserves located in Garfield County, Colorado. This programmatic statement deals with several levels of potential decisions which can lead to DOE action which may become imminent due to the need to meet the President's 1990 domestic goal of 4.5 million additional barrels of liquid fuels produced or conserved. The alternatives consider several liquid fuel technologies and other options which include: coal liquidification, biomass, and increased conservation. (DOE/EIS–0068.) (EIS Order No. 800693.)

DEPARTMENT OF THE 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

Draft

Ukiah district timber management plan, several counties in California, Sept. 8: Proposed is a timber management plan for the sustained yield unit 13 in the Ukiah district in Humboldt, Mendocino, Trinity, and Sonoma Counties, California. The plan includes an allowable cut of 97 million board feet and would include rehabilitation and stand improvement on 1,460 acres. The alternatives considered are: (1) no action, (2) limited investment, (3) two accelerated harvests, and (4) management of old growth. (DES–80–56.) (EIS Order No. 800671.)

Mount Dome planning unit livestock grazing mgmt., Siskiyou and Modoc Counties, Calif., Sept. 10: Proposed is the implementation of a livestock grazing management plan for the Mount Dome area in Siskiyou and Modoc Counties, California. Components include: (1) adjustments of authorized livestock use; (2) introduction of grazing treatments; and (3) range projects and facilities including vegetation manipulation and construction of reservoirs, fencing, pipeline, water tank and throughs. The alternatives include moderate, primitive, limited or exclusive uses and no action. (DES–80–58.) (EIS Order No. 800673.)

Final

White River resource area grazing mgmt., program, Garfield, Moffat, and Rio Blanco Counties, Colo., Sept. 12: Proposed is a rangeland grazing management plan for the White River resource area in Garfield, Moffat and Rio Blanco Counties, Colorado. The program would continue intensive grazing management on 156,471 acres, implement intensive grazing management on 1,290,544

acres and implement less intensive management on 61,941 acres. Range improvements required to implement intensive management include approximately 186,000 acres of vegetation manipulations, 700 watering facilities, and 212 miles of fence. Six alternatives are considered. (FES–80–32.) Comments made by: AHP, USDA, DOI, EPA, State agencies, Groups, and individuals. (EIS Order No. 800685.)

McGregor range grazing mgmt. plan, Otero County, N. Mex., Sept. 12: Proposed is a grazing management plan for the McGregor range in Otero County, New Mexico. The plan involves the construction of improvements, and increased grazing on 271,000 acres of the range. The alternatives which are considered include: (1) no action, (2) discontinue livestock grazing, (3) additional grazing, (4) change grazing season, (5) change grazing season and reduce grazing, and (6) reduce grazing and provide for summer grazing. (FES–80–31.) Comments made by: EPA, COE, DOI, AHP, USA, USDA, State agencies, groups, individuals, and businesses. (EIS Order No. 800684.)

HERITAGE CONSERVATION AND RECREATION SERVICE

Draft

California wild and scenic rivers, designation; several counties in California, Sept. 12: Proposed is the designation of five rivers in several counties of California, for designation in the wild and scenic rivers sytems. The rivers to be designated include portions of the Klamath, Trinity, and Eel River systems; the Smith River and all its tributaries; and a segment of the lower American River. Four of the five rivers are located in Del Norte, Siskiyou, Humboldt, Trinity and Mendocino Counties. The fifth river is located in Sacramento County. (EIS Order No. 800695.)

Fish and Wildlife Service

Draft

Charles M. Russell National Wildlife Refuge Mgmt., Several Counties, Mont., September, 11: Proposed is a Management Plan for the Charles M. Russell National Wildlife Refuge in Fergus, Garfield, McCone, Petroleum, Phillips and Valley Counties, Montana. The preferred plan would include: (1) Reduction of grazing, (2) Prescribed burning, (3) Fencing, (4) Construction of reservoirs, (5) Enhancement of wildlife habitat, (6) Improvement of recreational areas in facilities, and (7) other features. The alternatives consider: (1) No action, (2) Intensive wildlife management, (3) Multiple Use, and (4) Elimination of livestock. (DES–80–55). (EIS Order No. 800679.)

Water and Power Resources Services

Final

New Melones Lake, Allocation and Operation, Calaveras and Tuolumne Counties, Calif., September 12: Proposed are alternatives for water allocation and reservior operations for New Melones Lake on the Stanislaus River in Calaveras and Tuolunme Counties, California. The alternatives pertain to: (1) Use of the available new melones water supply in potential alternative Stanislaus River Basin areas and possible allocation in adjacent local areas along with other areas of the central valley project; and (2) operation of New Melones Reservoir as authorized along with three alternative storage operating levies. (FES–80–33). Comments made by: EPA, COE, DOI, FERC, AHP, DOC, DOI. State and Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 800688.)

Ohio River Basin Commission

Contact: Mr. Fred J. Krumholtz, Chairman, Ohio River Basin Commission, Suite 208–20, 36 East 4th Street, Cincinnati, Ohio 45202, (513) 684–3831.

Final

Kentucky/Licking River Basins' Resources Plan Several Counties, Ky., September 10: Proposed is the Kentucky/Licking River Basins' regional water and land resources plan located in 30 counties of Kentucky. The plan consists of 72 projects including one Army local protection project, seven USDA/SCS watershed treatment plants and 29 modifications to existing treatment facilities. Also included in the plan are a number of recommended programs and special studies. Comments made by: USDA, USA, DOC, DOE, EPA, REMA, FERC, HEW, HUD, DOT, DOI, State and Local Agencies. (EIS Order No. 800676.)

Allegheny River Basin water and Land Resources Several Counties in New York and Pennsylvania, September 8: Proposed is the Allegheny River Basin Comprehensive Coordinated joint plan which would affect the states of Pennsylvania and New York. The recommendations include: (1) Alternative Programs for an urban flood plan, (2) Funding for urban and rural water system rehabilitation, (3) Water supply storage operations, (4) Expansion of water pollution abatement measures, (5) Funding for rural and urban non-point pollution control programs, (6) Implementation of three local flood prevention projects, and (7) Several other features. Comments made by: USDA, USA, DOC, DOE, FERC, FEMA, HEW, HUD, DOI, DOT, EPA, State Agencies. (EIS Order No. 800669.)

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

Torras Causeway Improvement, St. Simons Island, Glynn Counties, Ga., Proposed are improvements to the Torras Causeway from US 17 to the intersection of Demere Road and Sea Island Road, on St. Simons Island, Glynn County, Georgia. The improvements would include: (1) Widening the facility to four lanes, (2) Widening and Upgrading the existing bridges with one high rise bridge at two alternative locations, and (3), Intersection improvements at each termini. The cooperating agencies are COE, USCG, EPA, FWS and the State of Georgia. (FHWA–GA–EIS–80–01–D). (EIS Order No. 800672.)

US 82, 75 to Loop 286, Paris and Sherman Cities Fannin, Grayson and Lamar Counties TX., September 11: Proposed is the reconstruction of US 82 from US 75 in the city of Sherman to Loop 286 in the city of Paris in Fannin, Grayson and Lamar Counties, Texas. The facility would be constructed as a four lane divided highway. The alternatives consider: (1) No action, (2) reconstruction of or a new alignment bypassing several towns, and (3) Reconstruction on the existing alignment. The cooperating agency is the state of Texas. (FHWA–TEX–EIS–80–01–D). (EIS Order No. 800678.)

Final

IN–66 improvement, 4th Avenue to proposed I–164. Vanderburgh County, Ind., September 10: Proposed is the improvement of IN–66 from Fourth Avenue to the proposed I–164 in Evansville, Vanderburgh County, Indiana. The improvement would be the construction of a new roadway along the existing alignment for approximately 6.5 miles. The facility would be six lanes from Fourth Avenue to Green River Road and then four lanes to the I–164 spur. Access would be limited to selected roadways. The alternatives considered are build and no action. The cooperating agency is the state of Indiana. (FHWA–IND–EIS–78–07–F). Comments made by: EPA, USDA, DOI, COE, HUD, state and local agencies groups, individuals and businesses. (EIS Order #800674.)

US 48/National Freeway, Wolfe Mill to Mv Smith Rd. Allegany County, Md. Proposed is the completion of a portion of US 48/National Freeway in Allegany County, Maryland. The portion involved extends from Wolfe Mill to Mv Smith Road for approximately 16.9 miles. The facility would be four lanes and designed at freeway standards. Access would be controlled, and interchanges will be provided at Wolfe Mill, US 220, Williams Road, Town Creek Road and US 40. This statement finalizes segment I of the project as addressed in the draft EIS, filed in 1973. A final EIS concerning segment II, #770796, was filed 6–27–77. (FHWA–MD–EIS–73–08–F). Comments made by: DOI, EPA, state and local agencies. (EIS Order #800690.)

NC–51, NC–16 to US 74, near Matthews, Mecklenburg County, N.C., September 8: The proposed action is the improvement of existing NC–51 from NC–16 to US 74 in Mecklenburg County, North Carolina. The proposed improvements consist of improving the existing substandard two-lane roadway to provide a modern two-lane roadway with some four-lane curb and gutter sections in and near the town of Matthews. Alternatives to the project include: (1) do-nothing, (2) major relocation of NC–51, (3) alternative bypass locations of Matthews, and (4) a mass transit alternative. (FHWA–NC–EIS–79–01–F). Comments made by: COE, EPA, HEW, DOI, DOE, state and local agencies. (EIS Order #800667.)

I–235 (Central Expressway), to I–35 & I–40. Oklahoma County, Okla., September 12: Proposed is the construction of I–235/Central Expressway in the city and county of Oklahoma, Oklahoma State. The facility would connect the existing North Broadway extension at 36th Street and the I–35/I–40

interchange. The facility would be a multilane, directionally-divided, controlled-access highway and would extend for 3.4 miles. The plan also includes the upgrading and modification of the existing I–35/I–40 interchange. The alternatives consider optional corridors. (FHWA–OK–EIS–77–01–F.) Comments made by: DOT, DOI, EPA, HEW, state and local agencies, groups, individuals and businesses. (EIS Order #800687.)

Allen Blvd., Murry Blvd. to Alice Lane, Beaverton. Washington, Oregon County, Oreg., September 8: Proposed is the improvement of Allen Boulevard from SW Murry Boulevard to SW Alice Lane in Washington County, Oregon. The project length is 1.5 miles. In addition to no-build, two alternatives are considered. Alternative A widens the existing two-lane facility to a four-lane facility with a 66 foot to 72 foot right-of-way. Alternative B would overlay the existing street and widen it only at major intersections. (FHWA–OR–EIS–76–06–F). Comments made by: DOI, EPA, state agencies, groups and individuals. (EIS Order #800668.)

Draft Supplement

4th Avenue to 5th Avenue Transition, Minot, Ward County, N. Dak., September 10: Proposed is the construction of a transition street between 4th and 5th Avenues in the city of Minot in Ward County, North Dakota. This supplement discusses the addition of an alternative beginning at 2nd Street NE., and extending to 5th Avenue. The length of the facility is about 3,300 feet and would require the purchase of right-of-way. This statement supplements a draft EIS, #780381, filed 4–18–80. The cooperating agency is the state of North Dakota. (FHWA–ND–EIS–78–02DS). (EIS Order #800675.)

Urban Mass Transportation Administration

Final

North Line Lindbergh/Piedmont Segment, Dekalb and Fulton Counties, Ga., September 12: Proposed is the construction of a rapid rail system by the Metropolitan Altanta Rapid Transit Authority from Armour Drive northeast to East Paces Ferry Road in Atlanta, Dekalb and Fulton Counties, Georgia. The length of the alignment is 15,300 feet. The proposed project also includes the consolidation of two previously proposed stations into a single Lindbergh center station to be located at the northwest corner of the Lindbergh Drive/Piedmont Road intersection. The Lindbergh center station will include 2,050 parking spaces, 14 bus bays, and covers 19 acres. Comments made by: DOT, DOI, state agencies, individuals. (EIS Order #800689.)

EIS's Filed During the Week of September 8, 1980 Through September 12, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Arkansas	Randolph	Final	Fourche Creek Watershed	800670	Sept. 8, 1980	USDA
California		Draft	Feral Animal Removal, San Clemente Island	800681	Sept. 11, 1980	USN
	Several	Draft	Sustained Yield 13 Timber Management	800671	Sept. 8, 1980	DOI
		Draft	California Wild and Scenic Rivers, Designation	800695	Sept. 12, 1980	DOI
	Modic	Draft	Mount Dome Planning Unit Livestock Grazing Management.	800673	Sept. 10, 1980	DOI
	Siskiyou	Draft	Mount Dome Planning Unit Livestock Grazing Management.	800673	Sept. 10, 1980	DOI
	Tuolumne	Final	New Melones Lake, Allocation and Operation	800688	Sept. 12, 1980	DOI
	Calaveras	Final	New Melones Lake, Allocation and Operation	800688	Sept. 12, 1980	DOI
Colorado	Garfield	Draft	Naval Oil Shale Reserves Development Options	800693	Sept. 12, 1980	DOE
		Final	White River Resource Area Grazing Management Program.	800685	Sept. 12, 1980	DOI
	Moffat	Final	White River Resource Area Grazing Management Program.	800685	Sept. 12, 1980	DOI
	Rio Blanco	Final	White River Resource Area Grazing Management Program.	800685	Sept. 12, 1980	DOI
Georgia	De Kalb	Final	North Line Lindbergh/Piedmont Segment	800689	Sept. 12, 1980	DOT
	Fulton	Final	North Line Lindbergh/Piedmont Segment	800689	Sept. 12, 1980	DOT
	Glynn	Draft	Torras Causeway Improvement, St. Simons Island	800672	Sept. 8, 1980	DOT
	Camden		Supplekings Bay FBM Submarine Support Base	800683	Sept. 11, 1980	USN
Illinois	Alexander	Draft	Big Five Flood Control Study	800692	Sept. 12, 1980	COE
	Union	Draft	Big Five Flood Contrtol Study	800692	Sept. 12, 1980	COE
Indiana	Vanderburgh	Final	IN–66 Improvement, 4th Avenue to Proposed I–164	800674	Sept. 10, 1980	DOT
Kentucky	Several	Final	Kentucky/Licking River Basins' Resources Plan	800676	Sept. 10, 1980	ORBC
Louisiana	East Carroll	Final	East Carroll Watershed Flood Protection	800682	Sept. 11, 1980	USDA
Maryland	Allegany	Final	U.S. 48/National Freeway, Wolfe Mill to MV Smith Rd.	800690	Sept. 11, 1980	DOT
Massachusetts	Berkshire	Draft	Washington Mountain Brook Watershed	800677	Sept. 11, 1980	USDA
Mississippi	Jackson	Draft	Krebs Lake Navigation Improvements, Pascagoula	800680	Sept. 11, 1980	COE
Missouri	Ripley	Final	Fourche Creek Watershed	800670	Sept. 8, 1980	USDA
Montana	Several	Draft	Charles M. Russell National Wildlife Refuge Management.	800679	Sept. 11, 1980	DOI
New Mexico	Otero	Final	McGregor Range Grazing Management Plan	800684	Sept. 12, 1980	DOI
New York		Final	Allegheny River Basin Water and Land Resources	800669	Sept. 8, 1980	ORBC
North Carolina	Mecklenburg	Final	MC–51, NC–16 to U.S. 74, Near Matthews	800667	Sept. 8, 1980	DOT
North Dakota	Ward	Supplement	4th Avenue to 5th Avenue Transition, Minot	800675	Sept. 10, 1980	DOT
Oklahoma	Oklahoma	Final	I–235 (Central Expressway), to I–35 and I–40	800687	Sept. 12, 1980	DOT
Oregon	Columbia	Final	Mt. Saint Helens Recovery Operation	800686	Sept. 12, 1980	COE
	Washington	Final	Allen Blvd., Murry Blvd. to Alice Lane, Beaverton	800668	Sept. 8, 1980	DOT
Pennsylvania		Final	Allegheny River Basin Water and Land Resources	800669	Sept. 8, 1980	ORBC
	Schuylkill	Draft	Swatara Creek Local Flood Protection	800691	Sept. 12, 1980	COE
Texas	Fannin	Draft	U.S. 82, U.S. 75 to Loop 286, Paris and Sherman Cities.	800678	Sept. 11, 1980	DOT
	Grayson	Draft	U.S. 82, U.S. 75 to Loop 286, Paris and Sherman Cities.	800678	Sept. 11, 1980	DOT
	Lamar	Draft	U.S. 82, U.S. 75 to Loop 286, Paris and Sherman Cities.	800678	Sept. 11, 1980	DOT
Washington	Cowlitz	Final	Mt. Saint Helens Recovery Operation	800686	Sept. 12, 1980	COE
	Several	Draft	Alpine Lakes Area Management Plan	800694	Sept. 12, 1980	USDA

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 Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.	Alpine Lakes Area Management Plan, Mt. Baker-Snoqualmie National Forests, Washington.	Draft 800694	Sept. 19, 1980 [1]	Extension	Nov. 10, 1980.
Department of Energy					
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585 (202) 252-4600.	Naval Oil Shale Reserves Development Options, Garfield County, Colorado.	Draft 800693	Sept. 19, 1980 [1]	Extension	Nov. 7, 1980.
Department of the Interior					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4356, Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343-3891.	Sustained Yield Unit 13 Timber Management plan, California.	Draft 800671			
	Charles M. Russell National Wildlife Refuge Mangement Plan, Montana.				
		Draft 800679	Sept. 19, 1980 [1]	Extension	
			Sept. 19, 1980 [1]	Extension	Nov. 25, 1980.
					Nov. 17, 1980.
	California Wild and Scenic Rivers.	Draft 800695	Sept. 19, 1980 [1]	Extension	Nov. 5, 1980.
U.S. Army Corps of Engineers					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272-0121.	Mount St. Helens Recovery Operations, Cowlitz County, Washington, and Columbia County, Oregon.	Final 800686	Sept. 19, 1980 [1]	Waiver	Oct. 3, 1980.

[1] See appendix I.

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
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, S.W., Washington, D.C. 20410 (202) 755-6300.	Four Seasons Planned Development, Fort Collins, Colorado.	Draft 800102	Feb. 25, 1980	Sept. 19, 1980.
	Golden Meadows Housing Development, Fort Collins, Colorado.	Draft 800132	Mar. 7, 1980	Sept. 19, 1980.
	Wagon Wheel Development, Fort Collins, Colorado.	Draft supp. 800145	Mar. 7, 1980	Sept. 19, 1980.
	The Woodlands Development, Fort Collins, Colorado.	Draft supp. 800150	Mar. 7, 1980	Sept. 19, 1980.

Appendix IV—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
None.				

[FR Doc. 80-29130 Filed 9-18-80; 8:45 am]
BILLING CODE 6560-01-M

[OPTS-51124; FRL 1603-7]

Polyester; Toxic Substances Premanufacture Notice

Correction

In FR Doc. 80-28013, appearing on page 60009, in the issue of Thursday, September 11, 1980, the word "Polyester" in the heading, should have been spelled as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and a high cost gas incremental pricing threshold which are to be effective October 1, 1980. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th & Pennsylvania Ave., N.W., Rm. 4121, Washington, D.C. 20461, (202) 633-9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	$Per million BTU's
Alabama	2.71
Arizona	2.73
Arkansas	3.01
California	2.61
Colorado	2.76
Connecticut	3.09
Delaware	2.95
Florida	2.75
Georgia	2.73
Idaho	3.55
Illinois	2.61
Indiana	2.59
Iowa	2.53
Kansas	2.20
Kentucky	3.53
Louisiana	2.03
Maine	3.19
Maryland	3.04
Massachusetts	2.98
Michigan	2.88
Minnesota	2.53
Mississippi	2.47
Missouri	2.56
Montana	2.71
Nebraska	2.52
Nevada	2.73
New Hampshire	3.20
New Jersey	2.96
New Mexico	2.49
New York	2.95
North Carolina	2.92
North Dakota	2.88
Ohio	2.14
Oklahoma	2.90
Oregon	3.12
Pennsylvania	2.87
Rhode Island	3.16
South Carolina	2.77
South Dakota	3.57
Tennessee	2.81
Texas	3.02
Utah	2.76
Vermont	3.42
Virginia	2.62
Washington	2.83
West Virginia	2.75
Wisconsin	2.70
Wyoming	2.60

Section II. Incremental pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during July 1980 was $33.03 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective October 1, 1980, is $7.40 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 28, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 81, issued in the same docket on May 7, 1980, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1981.

A. *Data Collected*

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1% sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of May 1980, June 1980 and July 1980.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. *Method Used To Determine Alternative Price Ceilings*

(1) *Calculation of Volume-Weighted Average Price.*—The prices which will become effective October 1, 1980 (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, May 1980, June 1980, and July 1980. Reported prices for sales in May 1980 were adjusted by the percent change in the nationwide volume-weighted average price from May to July 1980. Prices for June 1980 were similarly adjusted by the percent change in the nationwide volume-weighted average price from June to July 1980. The volume-weighted 3-month average of the adjusted May 1980 and June 1980, and the reported July 1980 prices were then computed for each State.

(2) *Adjustment for Price Variation.*—States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Prices.*—The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.*—The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending September 12, 1980, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of July 1980. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

C. *Listing of States by Region*

States were grouped by the FERC to form eight distinct regions as follows:

Region A	Region B	Region C	Region D
Connecticut	Delaware	Alabama	Illinois
Maine	Maryland	Florida	Indiana
Massachusetts	New Jersey	Georgia	Kentucky
New Hampshire	New York	Mississippi	Michigan
Rhode Island	Pennsylvania	North Carolina.	Ohio
Vermont		South Carolina.	West Virginia
		Tennessee	Wisconsin
		Virginia	
Iowa	Arkansas	Colorado	Arizona
Kansas	Louisiana	Idaho	California
Missouri	New Mexico	Montana	Nevada
Minnesota	Oklahoma	Utah	Oregon
Nebraska	Texas	Wyoming	Washington
North Dakota			
South Dakota			

Issued in Washington, D.C. on September 17, 1980.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 80-29272 Filed 9-18-80; 10:44 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1611-7]

Revisions to the Guideline on Air Quality Models

AGENCY: Environmental Protection Agency, Washington, D.C.

ACTION: Notice of Public Meetings.

SUMMARY: This notice announces the schedule for three public meetings to be held for the purpose of presenting revisions to the Guideline on Air Quality Models and soliciting public review and comment.

DATES AND SCHEDULE: Persons planning to attend are asked to notify the Agency by mail not later than ten (10) days prior to the meeting date.

The schedule for the meetings is as follows:

Washington D.C.:

October 21, 1980—9:00 a.m.–5:00 p.m.
October 22, 1980—8:30 a.m.–1:00 p.m.

Seattle, Washington:

October 28, 1980—9:00 a.m.–5:00 p.m.
October 29, 1980—8:30 a.m.–1:00 p.m.

Chicago, Illinois:

October 30, 1980—9:00 a.m.–5:00 p.m.
October 31, 1980—8:30 a.m.–1:00 p.m.

Written comments must be received no later than 4:00 p.m. (EST), December 1, 1980.

ADDRESSES: The notice of intent to attend should be submitted to: Source Receptor Analysis Branch (MD–14), Office of Air Quality Planning and Standards, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attn: Mr. Joseph A. Tikvart, Chief.

Copies of the proposed revisions to the guideline are available from the above address.

The locations of the meetings are as follows:

Thomas Jefferson Auditorium, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C.

Environmental Protection Agency Offices, Region X, 1200 Sixth Avenue, Seattle, Washington.

Blackstone Hotel, 636 South Michigan Avenue, Chicago, Illinois.

Written public comments must be submitted (duplicate copies are preferred) to: Central Docket Section (A–130), Environmental Protection Agency, Attn: Docket No. A–80–46, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph A. Tikvart, Chief, Source Receptor Analysis Branch (MD–14), Office of Air Quality Planning and Standards, United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711; phone (919) 541–5261.

SUPPLEMENTARY INFORMATION: In April 1978 the Environmental Protection Agency published the Guideline on Air Quality Models (EPA–450/2–78–027). The purpose of the guideline is to provide guidance on the selection and application of air quality models for evaluating State Implementation Plans, making new source reviews, assessing prevention of significant deterioration proposals and otherwise estimating source receptor relationships. As stated in the Preface to this Guideline, EPA intends to continually review and periodically update the guide to insure that it represents the current state-of-the-art with respect to air quality models and data base requirements. Guideline revisions will coincide with the Conference on Air Quality Modeling required by the Clean Air Act (CAA) to be conducted at three-year or shorter intervals. The next Conference will be held early in 1981.

As a basis for revising the Guideline and holding the next Conference, EPA has conducted several in-house workshops which include Regional Office, research and headquarters staffs. Furthermore, EPA has entered into a cooperative agreement with the American Meteorological Society to obtain input from the scientific community. Also, a procedure to include new models in the Guideline, as noticed in the Federal Register, Vol. 45, No. 61, March 27, 1980, was initiated. Based on

the results of these activities, EPA is proposing revisions to the Guideline and is soliciting comments through these public meetings.

The purpose of this notice is to announce the time and place of the meetings which are open to the general public. All interested parties are invited to express their views. The meetings will be conducted informally and chaired by an EPA official. There will be no sworn testimony or cross examination. The proceedings will be recorded for use in reviewing comments on EPA's modeling guidance. Speakers are encouraged to bring extra copies of their presentations for the convenience of the reporter and the Agency panel. Speakers will be permitted to enter into the record any additional written comments they do not present orally. Written comments by the public are encouraged. The issues addressed will be considered in developing a revised Guideline on Air Quality Models which will be proposed as rulemaking and presented at the conference on Air Quality Modeling planned for early 1981.

On the first day of each meeting a history of the Guideline, applicable CAA requirements, and issues concerning consistency in modeling will be summarized. Also a status report on major EPA research programs concerning modeling and a report on the plans and accomplishments of a cooperative agreement between the American Meteorological Society and EPA will be presented. Proposed revisions to the Guideline, proposed changes to recommended models and recommendations concerning non-EPA models received as a result of the Federal Register solicitation of models dated March 27, 1980, will be discussed. On the afternoon of the first day, comments will be received from other governmental agencies and the general public. The second day will be devoted exclusively to comments from the public.

EPA solicits advice and comment especially on the following items:

1. Specific changes that should be made to recommended models;
2. Screening and refined techniques for use in complex terrain;
3. Requirements for emissions, meteorological and air quality data bases;
4. Selection of receptor sites;
5. Criteria for the case-by-case acceptance of non-Guideline models;
6. Use of measured air quality data in lieu of model estimates for establishing emission limits;
7. The appropriate number and placement of monitors to support a model evaluation;
8. Performance measures and standards for models.

In order to assist the Agency in preparing for the meetings, persons planning to attend are asked to notify the Agency by mail (at the address given above) no later than ten (10) days prior to the meeting date. In the notification, persons desiring to speak should identify the organization (if any) on whose behalf they are entering a statement and the place(s) and dates of attendance. A copy of proposed revisions to the Guideline will be sent to interested persons. Copies will be available for all registrants at the meetings.

Dated: September 16, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 80-29204 Filed 9-18-80; 9:20 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-16]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: September 19, 1980.

Cut-off date: October 31, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after October 31, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 31, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on October 31, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 31, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Report No. A-16

BPCT-800718KH (new) Tyler, Texas, Sunrise Broadcasting, Inc., Channel 14, ERP: Vis. 1236 kW; HAAT: 1034 feet.

BPCT-800626KH (new) Anderson, Indiana, Indiana Telecasters, Inc., Channel 67, ERP: Vis. 2118 kW; HAAT: 1129 feet.

BPCT-800702KH (new) Knoxville, Tennessee, Lloyd Hearing Aid Corporation, Channel 43, ERP: Vis. 550 kW; HAAT: 1563 feet.

BPCT-800717KF (new) Hattiesburg, Mississippi, Central Television, Inc., Channel 22, ERP: Vis. 672 kW; HAAT: 802 feet.

[FR Doc. 80-26997 Filed 9-18-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Am Tru Inc.; Formation of Bank Holding Company

Am Tru Inc., Whiting, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of American Trust and Savings Bank of Whiting, Whiting, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 15, 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, September 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29042 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

ANB Bankshares, Inc.; Formation of Bank Holding Company

ANB Bankshares, Inc., Brunswick, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of American National Bank of Brunswick, Brunswick, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in

writing to the Reserve Bank, to be received not later than October 15, 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, September 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29045 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

First City Bancorporation of Texas, Inc.; Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Valley View Bank, Dallas, 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 October 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29039 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

First Norman Bancshares, Inc.; Formation of Bank Holding Company

First Norman Bancshares, Inc., Norman, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of the First National Bank and Trust Company, Norman, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 15, 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, September 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29043 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Heritage Racine Corp.; Formation of Bank Holding Company

Heritage Racine Corporation, Racine, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Heritage Bank and Trust, Racine, Wisconsin; Heritage National Bank of Racine, Racine, Wisconsin; and Heritage Bank-Mt. Pleasant, Racine, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29036 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bancorporation Inc.; Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Mercantile Bank of South County, N.A., St. Louis, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 15, 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, September 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29040 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Portland Financial Services, Inc.; Formation of Bank Holding Company

Portland Financial Services, Inc., Portland, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98 percent of more of the voting shares of The Citizens Bank of Portland, Portland, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 9, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29044 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Republic Bancorporation, Inc.; Proposed Acquisition of Guaranty Trust Company

Republic Bancorporation, Inc., Tulsa, Oklahoma, 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 Guaranty Trust Company, Ponca City, Oklahoma.

Applicant states that the proposed subsidiary would engage in industrial bank activities, including making secured personal and commercial loans and accepting deposit monies from the public evidenced by thrift certificates. These activities would be performed from offices of Applicant's subsidiary in Ponca City and Oklahoma City, Oklahoma, and the geographic areas to be served are Ponca City and Oklahoma City, Oklahoma. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of 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 Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1980.

Board of Governors of the Federal Reserve System, September 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29038 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Southwestern Bancorp, Inc.; Formation of Bank Holding Company

Southwestern Bancorp, Inc., Sanderson, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Sanderson State Bank, Sanderson, 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 October 14, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29041 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

Whitefish Holding Company, Inc.; Formation of Bank Holding Company

Whitefish Holding Company, Inc., Whitefish, Montana, 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 96.7 per cent or more of the voting shares of The First State Bank of Whitefish, Whitefish, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 10, 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, September 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-29037 Filed 9-18-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 15, 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 receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 7, 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.

Federal Communications Commission

The FCC requests clearance of the reporting requirements contained in new Subpart H, Amateur-Satellite Service, to Part 97 of its Rules and Regulations; specifically § 97.423, Notifications Required. Docket 19852 adopted July 17, 1980, amends the FCC Rules and Regulations to establish the Amateur-Satellite Service. The data, required by new § 97.423, must be collected from a licensee of a station in the Amateur-Satellite Service 27, 15 and 3 months

prior to initiating space operation in order to comply with notification and coordination requirements of the International Radio Regulations, Article 9A. A form is not required due to the infrequent launching of satellites. The FCC estimates that approximately one request will be received annually and that respondent burden will average 3 hours per request.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-29000 Filed 9-18-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1980:

Health Services Research Review Subcommittee

Date and Time: October 16-17, 1980, 8:30 a.m.
Place: Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036.
Open October 16, 8:30 a.m. to 9:30 a.m.
Closed for remainder of meeting.
Purpose: The objective of the Subcommittee is to advise the Secretary and make recommendations to the Director, National Center for Health Services Research, concerning the scientific and technical merit review of health services research grant applications involving primarily the analysis and use of economic, statistical, and other theoretical approaches which examine problems associated with the delivery of health services.
Agenda: The open session of the meeting on October 16, 1980, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.
Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6918.

Health Services Developmental Grants Review Subcommittee

Date and Time: October 23-24, 1980, 9:00 a.m.
Place: Gramercy Inn, North Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036.
Open October 23, 9:00 a.m. to 12:00 noon.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on October 23, 1980, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the committee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.
Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6916.

Health Care Technology Study Section

Date and Time: October 27-29, 1980, 8:30 a.m.
Place: Center Building, Conference Room G-20, 3700 East-West Highway, Hyattsville, Maryland 20782.
Open October 27, 8:30 a.m. to 12:00 noon.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of the meeting on October 27 will be devoted to a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Public Law 92-463.
Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6196.

Agenda items are subject to change as priorities dictate.

Dated: September 5, 1980.

Wayne C. Richey, Jr.

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-28952 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-85-M

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of October 1980.

Treatment and Rehabilitation Work Group, of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

October 7; 10:00 a.m.—Open. Conference Room I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Contact: Dr. David Clough, Room 11-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2070.
Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism and its work groups (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.
Agenda: The meeting will consist of a discussion of future work plans and activities for the work group.

Paraprofessional Education Review Committee

October 9-11; 9:00 a.m. Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20014. Open—October 9, 9:00 a.m. to 12:00 noon. Closed—Otherwise.
Contact: Mrs. Carolyn Snowden, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1737.
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for paraprofessional education, the primary focus of which is on the development, production, and integration of paraprofessional mental health workers into service systems to meet NIMH service priorities such as providing services to unserved and underserved populations, increasing the supply of trained minority mental service manpower, and providing mental illness prevention services, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 12:00 noon on October 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee

October 15–20; 7:00 p.m. International Inn, 10 Thomas Circle, N.W., Washington, D.C. 20005. Open—October 15, 7:00–9:30 p.m. Closed—Otherwise.

Contact: Mr. Phillip Dawes, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2473.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism service activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 7:00 to 9:30 p.m. on October 15, the meeting will be open for discussion of administrative, legislative, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Alcohol Human Resource Development Review Committee

October 16–17; 9:00 a.m. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2585.

Open—October 16, 9:00 to 10:30 a.m.

Closed—Otherwise.

Contact: Mrs. Doris L. Banks, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4640.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to manpower and training activities, and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 10:30 a.m. on October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determinations by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Community Processes and Social Policy Review Committee

October 16–18; 9:00 a.m. Shoreham Hotel, Conference Room E–130, Calvert Street and Connecticut Avenue, N.W., Washington, D.C. 20008. Open—October 16, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Mrs. Rachel Driver, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1177.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the field of institutional and organizational environments, and community social relationships and processes, as these relate to social problems, social policy and individual and family mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee

October 21–24; 9:00 a.m. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—October 20, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Alan Schreier, Ph. D., Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 to 10:00 a.m. on October 20, the meeting will be open for discussion of general research topics, administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee

October 20–24; 9:00 a.m. Conference Rooms I and K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—October 20, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Daniel L. Mintz, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program area administered by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 to 10:00 a.m. on October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Apppendix I).

Drug Abuse Resource Development Review Committee

October 20–24; 9:00 a.m. Conference Rooms 17–09B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open—October 20, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Mary C. Knipmeyer, Ph. D., Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6664.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration treatment services, prevention and education, and training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00 to 10:00 a.m. on October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applicants for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Apppendix I).

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

October 21; 9:30 a.m.—Open. Conference Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.

Contact: Mr. James Vaughan, Room 16C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3887.

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to

alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: The meeting will consist of a discussion of working group activities, Interagency Committee operations, and reports on agency activities.

Alcohol Biomedical Research Review Committee

October 22–24; 9:00 a.m. Gramercy Inn, 1616 Rhode Island Avenue, Washington, D.C. 20036. Open—October 22, 9:00 to 11:00 a.m. Closed—Otherwise.

Contact: Harvey P. Stein, Ph. D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 to 11:00 a.m. on October 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Apppendix I).

Alcohol Psychosocial Research Review Committee

October 22–24; 9:00 a.m. The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014. Open—October 22, 9:00 to 11:00 a.m. Closed—Otherwise.

Contact: James C. Teegarden, PH. D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol and Abuse and Alcoholism for final review.

Agenda: From 9:00 to 11:00 a.m. on October 22, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Review Committee

October 22–24; 9:15 a.m., Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland. Open—October 22, 9:15 to 10:30 a.m. Closed—Otherwise.

Contact: Mrs. Phyllis Pinzow, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of crime and delinquency, related law and mental health interactions, individual violent behavior, and sexual assault, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:15 to 10:30 a.m. on October 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee

October 23–25; 9:00 a.m., Westview Room 209, Grammacy Inn, 1616 Rhode Island Avenue, N.W., Washington, D.C. 20036. Open—October 23, 9:00 to 9:30 a.m. Closed—Otherwise.

Contact: Diana Souder, Room 9–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4844.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 9:30 a.m. on October 23, the meeting will be open for discussion of administrative announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Alcohol Abuse Preventive Review Committee

October 27–28; 9:00 a.m. Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland 20850. Open—October 27, 9:00 to 10:30 a.m. Closed—Otherwise.

Contact: Robert E. Davis, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol and Abuse and Alcoholism for final review.

Agenda: From 9:00 to 10:30 a.m. on October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Basic Behavioral Processes Research Review Committee

October 27–28; 9:00 a.m. The Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Open—October 27, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Anita K. Lipkin, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of experimental and physiological psychology and comparative behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee

October 27–29; 9:00 a.m. Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland. Open—October 27, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Mary M. Martin, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National

Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on October 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee

October 30–31; 9:00 a.m. Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910. Open—October 30, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Jean Pierce, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of basic psychopharmacology and neuropsychology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on October 30, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

October 30–31; 9:00 a.m. Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Open—October 31, 9:00 to 10:30 a.m. Closed—Otherwise.

Contact: Barbara Spelman, Room 9–102, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of research training activities in the fields of the biological sciences, the psychological sciences, and the social sciences and social problems areas, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:30 a.m. on October 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Minority Group Mental Health Review Committee

October 30–31; 9:00 a.m. Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015. Open—October 30, 9:00 to 10:30 a.m. Closed—Otherwise.

Contact: Edna M. Hardy Hill, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1177.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of minority mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:30 a.m. on October 30, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Board of Scientific Counselors, NIMH

October 30–November 1; 9:45 a.m. William A. White Building, Conference Room 512, St. Elizabeths Hospital, Washington, D.C. (October 30–31). Building 36, Conference Room 1B–07, National Institutes of Health, Bethesda, Maryland 20205 (November 1). Open—October 30, 9:45 to 10:00 a.m. Closed—Otherwise.

Contact: Dr. John C. Eberhart, Building 36, Room 1A–05, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3501.

Purpose: The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in the William A. White Building, Conference Room 512, St. Elizabeths Hospital, Washington, D.C., for approximately 15 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the three-day session will be devoted to a review of the intramural research projects from the Laboratories of Clinical Psychopharmacology, and Preclinical Pharmacology, and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Social Work Education Review Committee

October 31; 9:00 a.m. Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland. Open—October 31, 9:00 to 10:00 a.m. Closed—Otherwise.

Contact: Mrs. Judith Ann Lynch, Room 9C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220.

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for education and manpower development support in the field of social work, including those which strongly reflect the recommendations of the President's Commission on Mental Health, and in accord to the degree to which these address one or more of the NIMH priority areas on behalf of social work education, continuing education, short-term mental health training, and special projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m. on October 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members for NIMH will be furnished by Mrs. Uvalda Dowdy, Office of the Associate Director for Extramural Programs, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4333. For NIAAA: Ms. Helen Garrett, Committee Management Officer, Room 16C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–2860. For NIDA: Ms. Mary Carol Kelly, Information Officer, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–6245.

Dated: September 15, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug, Abuse, and Mental Health Administration.

[FR Doc. 80–28951 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–88–M

Food and Drug Administration

[Docket No. 80G-0360]

Flett Development Co. and Rumose Products Co.; Processed Kraft Paper and Corrugated Board; Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Flett Development Co. and Rumose Products Co., Divisions of the James Flett Organization, Inc., have filed a petition proposing affirmation that use of processed kraft paper and corrugated board as an ingredient in animal feeds be generally recognized as safe (GRAS).

DATE: Comments by November 18, 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: Jane F. Robens, Bureau of Veterinary Medicine (HFV-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under the regulations for affirmation of GRAS status (§ 570.35 (21 CFR 570.35)), notice is given that a petition (GRASP FAP-2182) has been filed by Flett Development Co. and Rumose Products Co., Divisions of the James Flett Organization, Inc., 20 N. Wacker Drive, Chicago, IL 60606, proposing that processed kraft paper and corrugated board be affirmed as GRAS as an ingredient in animal feeds. The processed corrugated board is composed of chopped, ground, or pelleted corrugated cartons used in packing and shipping food products, and corrugated cuttings from carton manufacturing plants. The corrugated board is manufactured from processed kraft paper made from coniferous woods. The paper contains 60 to 65 percent cellulose fibers from which 20 to 25 percent of the lignin and 10 to 20 percent of the pentoses, plus the gums, resins, tannin, fats, and ash have been removed in processing. The GRAS affirmation petition is for processed kraft paper and corrugated board intended for use as a component of livestock feeds and an indirect component of human foods through edible products derived from such livestock. The petition has been placed on display in the office of the Hearing Clerk.

Any petition that meets the format requirements outlined in § 570.35 is accepted for filing by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before November 18, 1980, review the petition and/or file comments, preferably four copies, with the Hearing Clerk (address given above). Comments should be identified with the Hearing Clerk docket no. and should include any available information helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk from 9 a.m. to 4 p.m., Monday through Friday.

Dated: September 12, 1980.

Gerald A. Guest,

Acting Director of Bureau of Veterinary Medicine.

[FR Doc. 80-28955 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0068; DESI 12542]

Phenylbutazone and Oxyphenbutazone Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice amends a previous notice on phenylbutazone and oxyphenbutazone to revise the drugs' indications and to state the conditions for their approval and marketing.

DATES: Supplements due on or before November 18, 1980.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 12542, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Supplements to full new drug applications (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for information on conducting dissolution and bioavailability tests: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 2, 1977 (42 FR 39140), the Director of the Bureau of Drugs announced his evaluation of the safety and effectiveness of the following drug products:

1. NDA 8-319; Butazolidin Tablets containing 100 milligrams phenylbutazone; Ciba Pharmaceuticals, Division Ciba-Geigy Corp., Ardsley, NY 10502.

2. NDA 12-542; Tandearil Tablets containing 100 milligrams oxyphenbutazone; Ciba Pharmaceuticals.

The Director classified phenylbutazone and oxyphenbutazone as effective for the treatment of active rheumotoid arthritis, active ankylosing spondylitis, and acute gouty arthritis. He further classified the drugs as lacking substantial evidence of effectiveness and not shown to be safe for other uses. The notice set forth the conditions for approval and marketing of phenylbutazone and oxyphenbutazone when labeled for the indications classified as effective, and offered an opportunity for a hearing on the indications classified as lacking substantial evidence of effectiveness or not shown to be safe.

Ciba-Geigy requested a hearing and supplemented its NDA's with additional data and information. After reviewing the submitted information, the Bureau of Drugs concluded that Butazolidin and Tandearil are safe and effective for acute gouty arthritis, active rheumatoid arthritis, active ankylosing spondylitis, short-term treatment of acute attacks of degenerative joint disease of the hips and knees not responsive to other treatment, and painful shoulder (peritendinitis, capsulitis, bursitis, and acute arthritis of that joint). The Bureau approved the supplements providing for revised labeling, and Ciba-Geigy withdrew its hearing request. No other person requested a hearing concerning the indications classified in the August 2, 1977 notice as lacking substantial evidence of effectiveness or not shown to be safe.

The August 2, 1977 notice is hereby amended to read as follows with respect to phenylbutazone and oxyphenbutazone.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product(s) specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such a person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Safety and effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are safe and effective for the indications listed in the labeling conditions below. The drugs lack substantial evidence of effectiveness or have not been shown to be safe for any other indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in conventional tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. A labeling guideline is available from the Division of Oncology and Radiopharmaceutical Drug Products (address given above). The Indications are as follows:

Acute gouty arthritis.
Active rheumatoid arthritis.
Active ankylosing spondylitis.
Short-term treatment of acute attacks of degenerative joint disease of the hips and knees not responsive to other treatment.
Painful shoulder (peritendinitis, capsulitis, bursitis, and acute arthritis of that joint).

3. *Marketing Status.* a. Marketing of the durg products that are now the subject of an approved or effective new drug application may be continued provided that, on or before Novermber 18, 1980, the holder of the application submits, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (212 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing the products. The application must contain in vivo data to show that the drug is biologically available in the formulation to be marketed. Because of the inherent toxicological side effects associated with these drugs, the Director recommends that any person planning to conduct a bioavailability study in humans with these drugs submit the proposed protocol to the Bureau before undertaking the study. Under 21 CFR 320.21, certain bioavailability studies require prior submission of a "Notice of Claimed Investigational Exemption for a New Drug." Dissolution rate data are required of solid oral dosage forms. Information regarding bioavailability requirements, dissolution testing, and review of protocols is available from the Division of Biopharmaceutics (address given above).

Marketing before approal of an abbreviated new drug application will subject the products and those persons who caused the products to be marketed to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 29, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80–28792 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 75N–0223; DESI 3265]

Tral Gradumets; Drugs for Human Use; Drug Efficacy Study Implementation; Rescission of Notice of Opportunity for Hearing and Reevaluation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice (1) rescinds a notice of opportunity for hearing on the proposal to withdraw approval of a new drug application, (2) reclassifies the controlled-release form of hexocyclium methylsulfate to effective for use as adjunctive therapy in the treatment of peptic ulcer, and (3) announces the conditions for marketing the product.

DATES: Supplements to approved new drugs applications due on or before November 18, 1980.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 3265, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFD–110), Rm. 16B–30, Bureau of Drugs.

Original abbreviated new drug applications: Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for information on conducting bioavailability tests: Division of Biopharmaceutics (HFD–520), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Freedom of Information Staff (HFI–35), Rm. 12A–16.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Margery Erickson, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to withdraw approval of the new drug applications for certain anticholinergic drugs in controlled-release dosage form, based upon lack of substantial evidence

of effectiveness. The conclusion that the controlled-release products lack substantial evidence of effectiveness was based upon the lack of any data demonstrating prolonged effect when compared with products in conventional dosage form. The following product was among those named in the notice:

Tral Gradumets (controlled-release tablets) containing 50 milligrams hexocyclium methylsulfate; Abbott Laboratories, Abbott Park, 14th and Sheridan Rd., North Chicago, IL 60064 (NDA 11-200).

The non-controlled-release form of hexocyclium methylsulfate (Tral Tablets) had previosly been concluded to be an effective anticholinergic (36 FR 11754; June 18, 1971).

In a notice published in the Federal Register of October 7, 1977 (42 FR 54617), the Director withdrew approval of the new drug application for Tral Gradumets, for failure of the applicant to request a hearing. Inadvertently, the November 11, 1975 notice of opportunity for hearing had not referred to certain studies previously submitted by Abbott; the October 7, 1977 notice was therefore rescinded in the Federal Register of February 7, 1978 (43 FR 5072) insofar as it concerned Tral Gradumets.

FDA reissued the notice of opportunity for hearing in the Federal Register of October 24, 1978 (43 FR 49568), on the basis that the previously submitted studies relied upon by Abbott, and all other data and information available, did not demonstrate the sustained-release characteristics of Tral Gradumet tablets, when compared with products in conventional dosage form. In response, Abbott requested a hearing, resubmmitted one study, and provided additional pharmacological data and dissolution data.

FDA has evaluated the studies submitted and concludes that they provide substantial evidence that Tral Gradumets are a controlled-release product when compared to products in conventional dosage form. Accordingly, the October 24, 1978 notice of opportunity for hearing is rescinded and the drug is now regarded as effective for the indication described in the labeling conditions below.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD-310) (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has considered all available evidence, and concludes that Tral Gradumets are effective for the indication described below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The preparation is a controlled-release tablet suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows:

For use as adjunctive therapy in the treatment of peptic ulcer.

3. *Marketing Status.* a. Marketing of such a drug product that is now the subject of an approved or effective new drug application may be continued provided that on or before November 18, 1980, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Because this product is a controlled-release dosage form, that requirement will not be waived. The bioavailability studies should include both in vitro dissolution tests and in vivo studies on the product.

Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 29, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-28794 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0290]

Advanced Soft-Optics, Inc.; Premarket Approval of Softics (Deltafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administraion.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Softics (deltafilcon A) Hydrophilic Contact Lens sponsored by Advanced Soft-Optics, Inc., Nashville, TN. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 20, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administraton, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Advanced Soft-Optics, Inc.,

Nashville, TN, submitted an application for premarket approval of the Softics (deltafilcon A) Hydrophilic Contact Lens to FDA on May 23, 1979. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 6, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau fo Medical Devices.

Before enactment of the Medical Device Amendments fo 1976 (Pub. L. 94–295, 90 Stat. 539–583 (the amendments)), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request from that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

The labeling of the Softics (deltafilcon A) Hydrophilic Contact Lens, like that of other approved contact lenses, states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling helps to inform new lens users that they must avoid using inappropriate products, e.g., solutions for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new solutions that FDA approves for use with an approved contact lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitoner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administative practices and procedrues regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petiton must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of reveiw requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 20, 1980, file with the hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 10, 1980.

William F. Randolph,

Acting Associate Commissioner for Regualtory Affairs.

[FR Doc. 80–28961 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79D–0468]

Medical Devices; Product Development Protocol Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a guideline developed by its Bureau of Medical Devices that sets forth the criteria for approval of a product development protocol (PDP) for premarket testing of investigational medical devices, prescribes the contents of a PDP, and describes the procedures by which FDA may determine that a PDP is completed. This notice informs the general public of its opportunity to obtain the guideline, submit PDP's, and comment on the guideline.

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: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: FDA's Bureau of Medical Devices has developed a PDP guideline that prescribes the contents of a PDP application and sets forth criteria for FDA approval of a PDP. FDA believes that sponsors of medical devices subject to premarket approval may wish to use this guideline in submitting PDP's under section 515(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(f)).

Because the PDP procedure is new, FDA has decided that it would be better at this time to issue a PDP guideline rather than a PDP regulation. After consideration of the agency's and sponsors' experiences in using the guideline, FDA will be able to issue a more meaningful regulation at some future date.

The purpose of a PDP is to encourage the development of innovative devices, to reduce development time and costs by combining the conventional two-step investigatory and premarket development procedure into one regulatory mechanism, to aid small manufacturers, and to provide sponsors greater certainty that a testing approach

will be acceptable to FDA. The guideline is intended to assist persons submitting PDP's to the agency to meet these objectives.

PDP's are optional; FDA cannot require a sponsor to submit a PDP rather than a premarket approval application (PMA) when seeking approval for a device. However, a sponsor may gain major advantages in using a PDP. For example, a sponsor can obtain FDA assistance in designing the testing procedures and protocols. Also, the sponsor receives a committment from FDA that if the testing is done under these approved procedures and protocols and the test results are satisfactory, the device will be approved by FDA for marketing. Small manufacturers are likely to benefit from FDA assistance particularly for products that are used in limited circumstances.

The PDP mechanism is an alternative to the usual two-step procedure in which investigation and research involving a device is done under an approved investigational device exemption (IDE), as provided in 21 CFR Part 812, and, in a separate action the test results are submitted to FDA in an application for approval of a PMA. (FDA published regulations on IDE's in the Federal Register of January 18, 1980 (45 FR 3732) and expects to publish proposed PMA procedural regulations in the Federal Register in the near future.)

There are five steps in the PDP process. Step I is a presubmission conference with FDA. The presubmission conference is designed to ensure that a PDP is appropriate for a particular device rather than an IDE and PMA (or reclassification of the device). Step II is FDA's determination that a PDP is appropriate. In this step, FDA formally determines whether a PDP that has been submitted by a sponsor is appropriate for the device. Step III is filing and approving a PDP. FDA will file a PDP if the PDP is suitable for submission to an advisory panel for review. To be suitable, the PDP must be designed to develop, or in fact contain, sufficient data to permit an evaluation of the device's safety and effectiveness. Upon filing of a suitable PDP, FDA will refer the PDP to an advisory panel for a recommendation. Subsequently, FDA will evaluate the PDP and the panel's recommendation and either approve or disapprove the PDP. Step IV is the submission of pre-clinical test results. After a PDP is approved, the sponsor may submit pre-clinical test data for FDA evaluation prior to beginning clinical trials. Although a PDP may be approved before pre-clinical testing, FDA will authorize the initiation of clinical trials only after reviewing the pre-clinical test results. After pre-clinical test results are evaluated, FDA will inform sponsors whether they may begin clinical tests with human subjects. This part of Step IV is similar to what happens when a sponsor seeks approval of an IDE. PDP sponsors must comply with the IDE requirements set forth in Part 812 including recordkeeping, institutional review board (IRB) review, and informed consent. Step V is the submission of clinical test results. This step is similar to what happens when a sponsor applies for approval of a PMA. FDA will review pre-clinical and clinical data together with manufacturing data and determine whether the device is suitable for marketing. After evaluating the data, FDA will declare the PDP "completed" or "not completed."

A significant difference between the PDP and the IDE/PMA procedure is in the time schedules. A PDP must be approved or disapproved within 120 days of the date it is filed by FDA. An IDE, however, is deemed approved 30 days after receipt by FDA. There is no statutory time limit for FDA review of PDP preclinical data submitted to obtain FDA authorization to begin clinical trials.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency.

A person who follows a guideline is assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. A person who chooses to depart from the guideline may discuss the matter further with the agency to prevent expenditure of money and effort for work that the agency may later determine to be unacceptable.

The guideline is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk, FDA. Requests for single copies of the guideline may be in writing to the Food and Drug Administration, Bureau of Medical Devices (HFK-402), 8757 Georgia Ave., Silver Spring, MD 20910.

Interested persons may submit written comments on the guideline at any time to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The comments will be considered in determining whether further amendments to or revisions of the guideline are warranted. Four copies of any comments shoud be submitted except that individuals may submit one copy. Submissions should be identified with the Hearing Clerk docket number found in brackets in the hearing of this document. Received comments will be incorporated into the public file on the guideline and may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 2, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-28796 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Miscellaneous External Drug Products Panel

Date, time, and place. October 5 and 6, 9 a.m., Pennsylvania Room, Holiday Inn, Bethesda, MD (October 5), Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (October 6).

Type of meeting and contact person. Open committee discussion, October 5, 9 a.m. to 4:30 p.m.; open public hearing, October 6, 9 a.m. to 10 a.m.; open committee discussion, October 6, 10 a.m. to 4:30 p.m.; John T. McElroy, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

General function of the Committee. The Committee reviews and evaluates data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the

contact person before October 1, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open Committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting on, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by September 26, 1980.

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 6 and 7, 9 a.m., Room 1813, 200 C Street, SW., Washington, D.C.

Type of meeting and contact person. Open public hearing, October 6, 9 a.m. to 10 a.m.; open committee discussion, October 6, 10 a.m. to 5 p.m.; open public hearing, October 7, 9 a.m. to 10 a.m.; open committee discussion, October 7, 10 a.m. to 5 p.m.; Max W. Talbott, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7538.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to intraocular lenses and the intraocular lens clinical investigation (October 6) and information pertinent to contact lenses and contact lens products (October 7). Submission of data relative to tentative classification of intraocular lenses is also invited. Those desiring to make formal presentations should notify the contact person by September 26, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time requred to make their comments.

Open Committee discussion. The Section will conduct reviews or premarket approval applications of intraocular lenses (October 6) and reviews of premarket approval applications for contact lenses and contact lens products (October 7). Prototype package inserts, patient information booklets, and fitting guides for contact lenses and prototype package inserts for contact lens solutions will be presented.

Applications for reimbursement. Must be received by September 26, 1980.

Gastrointestinal Drugs Advisory Committee (Subcommittee for Revision of Guidelines for Motility Modifying Agents)

Date, time, and place. October 7, 9 a.m., Conference Room P, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 7, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Joan Standaert, Bureau of Drugs (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open Committee discussion. The Subcommittee will discuss proposed revisions of guidelines for motility modifying agents.

Applications for reimbursement. Must be received by September 26, 1980.

Arthritis Advisory Committee

Date, time, and place. October 9 and 10, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, October 9, 9 a.m. to 11 a.m.; open public hearing, October 9, 11 a.m. to 12 a.m.; open committee discussion, October 9, 1 p.m. to 5 p.m., October 10, 9 a.m., to 3 p.m.; Ermona McGoodwin, Bureau of Drugs (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open Committee discussion. The Committee will discuss the update of guidelines for clinical evaluation of anti-inflammatory drugs; and update on pending New Drug Applications (NDA's) and Investigational New Drugs (IND's).

Applications for reimbursement. Must be received by September 29, 1980.

Antimicrobial Panel

Date, time, and place. October 17 and 18, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (October 17), Bethesda Marriott, Bethesda, MD (October 18).

Type of meeting and contact person. Open public hearing, October 17, 9 a.m. to 10 a.m.; open committee discussion, October 17, 10 a.m. to 4:30 p.m., October 18, 9 a.m. to 4:30 p.m.; Lee Geismar, Bureau of Drugs (HFD–512), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6057.

General function of the Committee. The Committee reviews and evaluates data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 13, 1980, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open Committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting on, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by October 1, 1980.

Ear, Nose, and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 27 and 28, 9 a.m., Room 425A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 27, 9 a.m. to 11:30 a.m.; open committee discussion, October 27, 1 p.m. to 4:30 p.m.; open public hearing, October 28, 9 a.m. to 11:30 a.m.; open committee discussion, October 28, 1 p.m. to 4:30 p.m.; Harry R. Sauberman, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use

and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to proposed classification recommendations for ear, nose, and throat (ENT) devices. Submission of data relative to proposed classification findings is also invited. Those desiring to make formal presentations should notify the contact person by October 6, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open Committee discussion. The Section will discuss safety and efficacy of Argon lasers for use in ENT applications; safety and efficacy of tympanostomy tubes; proposed classification recommendations for stapes prostheses; draft guidelines for manufacturers of tinnitus devices to follow when submitting a premarket approval application (PMA); a summary of hearing aid testing activities conducted at FDA's Winchester Engineering and Analytical Center; and other matters that may come to the Section's attention relating to classification of ENT devices.

Applications for reimbursement. Must be received by October 6, 1980.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Administrative Proceedings Staff (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meeting(s) listed above should be sent to the Office of Consumer Affairs (HFE–90), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting(s) announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meeting(s) announced in this notice in the docket for this notice.

Dated: September 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–28793 Filed 8–18–80; 8:45 am]

BILLING CODE 4110–03–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–4633, 86 Stat. 770–776) (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Physical Medicine Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. October 17, 9 a.m., Room 529A, 200 Independence Ave., SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed committee deliberations, 1 p.m. to 5 p.m.; Johnsie W. Bailey, Bureau of Medical Devices (HFK–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7156.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested person are encouraged to present information pertinent to the classification of physical medicine devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the contact person by October 3, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open Committee discussion. The Section will classify cast and orthotic padding, walking safety strap, standing frame, positioning wedges and pillows, podiatric molding material, and any additional devices. The Section will review nontrade secret safety and efficacy data from a premarket approval application which has been submitted to FDA for a device which FDA has determined, via premarket notification submissions (section 510(k)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) is not substantially equivalent to devices currently in commercial distribution.

Closed Committee deliberations. The Section will review a premarket approval application. This portion of the

meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552(c)(4)).

Applications for reimbursement. Must be received by October 1, 1980.

Immunology Device Section of The Immunology and Microbiology Devices Panel

Date, time, and place. October 27 and 28, 9 a.m., Holiday Inn, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Closed committee deliberations, October 27, 9 a.m. to 5 p.m.; open public hearing, October 28, 9 a.m. to 10 a.m.; open committee discussion, October 28, 10 a.m. to 5 p.m.; Srikrishna Vadlamudi, Bureau of Medical Devices (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the Committee. The Commitee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Closed committee deliberations. The Panel will review and discuss premarket approval applications P790022, Sherwood Medical, Lancer Diagnostics, Inc., Lancer TennaGen Assay tumor associated antigen immunological test system; and P800047, Damon, Damon Diagnostics, Tissue Polypeptide Antigen Test Kit (Prolifigen) tumor associated antigen immunological test system. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the review of the premarket approval applications listed below. Those desiring to make formal presentations should notify the contact person by September 25, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants' references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open Committee discussion. The Panel will discuss clinical data concerning premarket approval applications for immunological test systems used in the management of cancer (P790022, Lancer, TennaGen Assay, Sherwood Medical, Inc.; and P800047, Tissue Polypeptide Antigen, Damon Diagnostics, Inc.)

Applications for reimbursement. Must be received by October 6, 1980.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Administrative Proceedings Staff (HFA–305), Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts or regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE–90), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish

more information regarding the reimbursement program, please call 301–443–5006.

FDA has established expedited procedures for review of any application for reimbursement for particiapation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: September 12, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-28798 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Cancellation of consumer exchange meeting.

SUMMARY: In FR Doc. 80–575 appearing at page 56192 in the **Federal Register** of Friday, August 22, 1980, a notice announced a consumer exchange meeting to be held September 24, 1980, at the New York District Office, Brooklyn, NY. That meeting has been cancelled.

FOR FURTHER INFORMATION CONTACT: Alicia Martinez, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5043.

Dated: September 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-28797 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Pharmaceutical Reimbursement Board, Intent To Set MAC Limits; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of Notice.

SUMMARY: This document corrects several errors contained in the notice published in the **Federal Register** on September 3, 1980 (45 FR 58409) on the intent to set maximum allowable cost limits for various multiple-source drugs. The corrections occur in association with the following drugs: Methenamine Mandelate, Nystatin, Potassium Gluconate, and Thyroid. We are reprinting the entire notice for convenient reference.

EFFECTIVE DATES: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, 301–594–9635.

Dated: September 10, 1080.

Charles Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Maximum Allowable Cost Program; Intent To Set MAC Limits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: The Pharmaceutical Reimbursement Board is considering setting maximum allowable cost (MAC) limits for the drug products specified in this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1–C–5 East Low Rise, 6401 Security Boulevard, Baltimore, MD 21235.

SUPPLEMENTAL INFORMATION: .In accordance with 45 CFR 19.4, the Pharmaceutical Reimbursement Board has identified the following multiple-source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices:

Allopurinol, 100 and 300 mg oral tablets
Butabarbital Sodium, 30 mg oral tablets
Caffeine & Ergotamine Tartrate, 100 mg/1 mg oral tablets
Chlorothiazide, 250 and 500 mg oral tablets
Cyproheptadine HCl, 4 mg oral tablets
Dicyclomine HCl w/Phenobarbital, 10 mg/5 mg oral capsules and 20 mg/15 mg oral tablets
Lithium Carbonate, 300 mg oral capsules and 300 mg oral tablets
Methanamine Mandelate, 500 mg and 1 Gm oral tablets
Methylphenidate HCl, 10 mg oral tablets
Nystatin, 100,000 units/ml oral suspension; 100,000 units vaginal tablets; 500,000 units oral tablets and 100,000 units/Gm topical cream
Potassium Gluconate, 20 mEq/15 ml oral liquid (Elixir)
Promethazine HCl, 25 and 50 mg oral tablets
Pseudoephedrine HCl, 60 mg oral tablets and 30 mg/5 cc oral syrup
Sulfamethoxazole, 500 mg and 1 Gm oral tablets
Thyroid, .5 gr, 1 gr, and 2 gr oral tablets
Warfarin Sodium, 2, 2.5, 5 and 7.5 mg oral tablets

The Board has submitted these drugs to FDA for review.

The Board may also reconsider the MAC limits which have already been set for:

Acetaminophen w/Codeine, 300 mg/30 mg oral tablets and 300 mg/60 mg oral tablets
Ampicillin, 250 mg oral capsules and 125 mg/5 ml oral suspension
Methocarbamol, 500 mg and 750 mg oral tablets
Penicillin VK, 125 mg/5 ml and 250 mg/5 ml oral suspension and 250 mg and 500 mg oral tablets
Tetracycline HCl, 500 mg oral capsules.

We are publishing this Notice in order that all interested parties will be advised of the Board's action at the same time and will have ample opportunity to make their views known to the Board. Proposed MAC limits and the dates of any public hearing will be published at a later date.

Dated: August 27, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

Note.—When published originally, this document was assigned Federal Register Document Number 80–26904, and was filed on 9–2–80 at 8:45 a.m.

[FR Doc. 80-29052 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Advisory Committee to the Director; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on October 20–21, 1980, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 8:30 a.m. to 5:30 p.m. on October 20, and from 9:00 a.m. to 12:30 p.m. on October 21, in Building 31, Conference Room 6, C Wing. The entire meeting will be open to the public.

The purpose of the meeting will be to continue Committee examination of issues in costs and accountability for health research, with particular reference to the problems of research-intensive institutions. At its May meeting the following issues were discussed: (1) the real costs of doing health research, from the standpoints of both the scientists and the administrators, (2) Federal perspectives on costs and accountability—particularly in relation to revised OMB Circular A–21, and (3) recommendations of the National Commission on Research relating to accountability at academic institutions.

Presentations at the meeting will be made by representatives from selected institutions and the Federal Government. On the first day, several presentations will address alternative mechanisms for funding health research at academic institutions; the second day will be devoted to an examination of

NIH extramural research policies. Thus, the meeting will examine possible alternatives to existing research support practices and provide guidance on feasible approaches for strengthening the research associations between universities and the Government. As part of its examination the Committee will consider the report of the National Commission on Research, *Funding Mechanisms: Balancing Objectives and Resources in University Research.*

The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20205, 301–496–3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: September 12, 1980.

Suzanne L. Fremeau

Committee Management Officer, NIH.

[FR Doc. 80–28983 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

Biotechnology Resources Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, October 9 and 10, 1980, TraveLodge, 1200 Beacon Street, Brookline, Massachusetts 02146.

This meeting will be open to the public from 1:30 p.m. to approximately 5:00 p.m. October 9 to hear presentations and hold discussions with the members of Biotechnology Resources' staffs from the Massachusetts Institute of Technology and Harvard Medical School. On October 10, the meeting will be open from 8:30 a.m. to approximately 11:00 a.m. for discussion of the Biotechnology Resources Program activities in 1981 and to plan future Committee activities in connection with review and updating of the Five-Year Plan. Attendance by the public will be limited to space avaiable.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 8:00 p.m. to recess on October 9 and from approximately 11:00 a.m. to adjournment on October 10 for review, discussion, and evaluation of individual research propectuses submitted by organizations seeking access to PROPHET System services. These prospectuses and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the prospectuses, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Chief, Office of Science and Health Reports, Division of Research Resources, Bldg. 31, Rm. 5B–13, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5545, will provide summaries of meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–28987 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

National Cancer Institute; Contract Proposals and Grant Applications; Meetings for Review

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Cancer Control Grant Review Committee.
Dates: October 13–14, 1980.
Place: Building 31/C, Conference Room 8, National Institutes of Health.
Times: Open: October 13, 8:30 a.m.–9:00 a.m. Closed: October 13, 9:00 a.m.–adjournment; October 14, 8:30 a.m.–adjournment.
Closure reason: To review grant applications.
Executive Secretary: Robert F. Browning, Ph. D. Address: Westwood Building, Room 806, National Institutes of Health. Phone: 301/496–7413.

(Catalog of Federal Domestic Assistance Number 13.399, Research grants in cancer control, National Institutes of Health)

Name of committee: Clinical Cancer Education Committee.
Dates: November 5–6, 1980.
Place: Building 31/A, Conference Room 4, National Institutes of Health.
Times: Open: November 5, 8:30 a.m.–9:30 a.m. Closed: November 5, 9:30 a.m.–5:00 p.m.; November 6, 8:30 a.m.–adjournment.
Closure reason: To review grant applications.
Executive Secretary: Margaret H. Edwards, M.D. Address: Blair Building, Room 722, National Institutes of Health. Phone: 301/427–8855.

(Catalog of Federal Domestic Assistance Number 13.398, Project grants in cancer research manpower, National Institutes of Health)

Name of committee: Committee on Cytology Automation.
Dates: November 13–14, 1980.
Place: Building 31/C, Conference Room 10, National Institutes of Health.
Times: Open: November 13, 8:30 a.m.–5:30 p.m.; November 14, 8:30 a.m.–10:30 a.m. Closed: November 14, 10:30 a.m.–adjournment.
Closure reason: To review contract site visit and progress reports.
Executive Secretary: Bill Bunnag, Ph. D. Address: Westwood Building, Room 10A10, National Institutes of Health. Phone: 301/496–7147.

(Catalog of Federal Domestic Assistance Number 13.394, Research contracts in cancer detection and diagnosis, National Institutes of Health)

Name of committee: Clinical Cancer Program Project and Cancer Center Support Review Cmt. (Cancer Center Support Rev. Sub.).
Dates: November 13–14, 1980.
Place: Building 31/C, Conference Room 6, National Institutes of Health.
Times: Open: November 13, 8:30 a.m.–10:00 a.m. Closed: November 13, 10:00 a.m.–6:00 p.m.; November 14, 8:30 a.m.–adjournment.

Closure reason: To review grant applications.
Executive Secretary: Dr. Robert L. Manning.
Address: Westwood Building, Room 803, National Institutes of Health. Phone: 301/496–7721.

(Catalog of Federal Domestic Assistance Number 13.397, Project grants in cancer centers support, National Institutes of Health)

Name of committee: Clinical Cancer Program Project and Cancer Center Support Rev. Cmt. (Clinical Cancer Program Project Sub.).
Dates: December 8–10, 1980.
Place: Building 31/C, Conference Room 6, National Institutes of Health.
Times: Open: December 8, 8:30 a.m.–10:00 a.m. Closed: December 8, 10:00 a.m.–adjournment; December 9, 8:30 a.m.–adjournment; December 10, 8:30 a.m.,–adjournment.
Closure reason: To review grant applications.
Executive Secretary: Dr. Louise G. Thomson.
Address: Westwood Building, Room 809, National Institutes of Health. Phone: 301/496–7924.

(Catalog of Federal Domestic Assistance Number 13.397, Project grants in cancer centers support, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–28986 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Biology and Diagnosis; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCBD, National Cancer Institute, October 9–11, 1980. This meeting will be open to the public on October 9, 1980, Building 10 (Clinical Center), Conference Room 4B–36, National Institutes of Health, from 1:00 p.m. to 5:30 p.m. to discuss the scientific program of the Metabolism Branch, DCBD, and from 7:00 p.m. to 10:00 p.m., for concept review of proposed DCBD research projects. On October 10, 1980 the open meeting will continue in Building 31C, Conference Room 7, from 9:00 a.m. to 5:00 p.m., with the discussion of the scientific program of the Metabolism Branch, DCBD. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 11, 1980, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual programs and projects conducted by DCBD, National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Alan S. Rabson, Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31A, Room 3A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–4345) will furnish summary minutes, rosters of committee members, and substantive program information.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–28985 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

National Heart, Lung, and Blood Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 13 and 14, 1980, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on November 13 and from 9:30 a.m. to 12 noon on November 14 for discussion of the general trends in research relating to cardiovascular pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 12 noon to adjournment November 14 for the review, discussion, and evaluation of individual programs and projects conducted by the National Instututes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone (301) 496–2116.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–28989 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

National Institute of Dental Research; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research, on October 6–7–8, 1980, in Conference Room 117, Building 30, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on October 6 and 7, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. to adjournment on October 8 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Dental Research, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Dr. Marie U. Nylen, Director of Intramural Research, National Institute of Dental Research, National Institutes of Health, Building 30, Room 132, Bethesda, MD 20205 (telephone 301 496–1483) will provide summaries of meeting, roster of committee members, and substantive program information.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–28988 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

National Institute of Dental Research Programs Advisory Committee, Subcommittee on Dental Caries; Amended Notice of Meeting

Notice is hereby given of a change in meeting date and conference room for the Subcommittee on Dental Caries, National Institute of Dental Research Programs Advisory Committee, previously scheduled for September 25–

26, 1980, which was published in the Federal Register on July 17, 1980 (45 FR 47924).

The meeting will now be held on November 6–7, 1980, in Conference Room 7, Building 31–C, National Institutes of Health, Bethesda, Maryland. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 6, and from 9:00 a.m. to adjournment (approximately 12:00 Noon) on November 7 to discuss research progress and ongoing plans and programs of the National Caries Program. Attendance by the public will be limited to space available.

For further information, please contact Dr. James P. Carlos, Westwood Building, Room 528, National Institutes of Health, Bethesda, Maryland, 20205 (phone 301 496–7239).

(Catalog of Federal Domestic Assistance Program No. 13,840, Caries Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 12, 1980.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 80–28984 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of Benzoin for Possible Carcinogenicity; Availability

Benzoin (CAS 119–53–9) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of benzoin for possible carcinogenicity was conducted by incorporating the test chemical in diets of F344 rats or B6C3F1 mice. Benzoin is used as a photopolymerization catalyst, chemical intermediate, and flavor ingredient.

Under the conditions of this bioassay, benzoin was not carcinogenic for male or female F344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Benzoin for Possible Carcinogenicity (T.R. 204), are available from the Office of Cancer Communication, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–27408 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of Fluometuron for Possible Carcinogenicity; Availibility

Fluometuron (CAS 2164–17–2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the phenylurea herbicide fluometuron for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice.

Under the conditions of this bioassay, fluometuron was not carcinogenic for F344 rats of for female B6C3F1 mice. Equivocal results were obtained for male B6C3F1 mice which may have had an increased incidence of hepatocellular tumors. Because of the equivocal findings and because both rats and mice may have been able to tolerate higher doses, it is concluded that additional testing of fluometuron for carcinogenicity is warranted.

Single copies of the report, Bioassay of Fluometuron for Possible Carcinogenicity (T.R. 195), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–27409 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of 4,4'-Oxydianiline for Possible Carcinogenicity; Availability

4,4'-Oxydianiline (CAS 101–80–4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 4,4'-oxydianiline for possible carcinogenicity was conducted by feeding diets containing 200, 400, or 500 ppm of the test chemical to groups of 50 male or female F344 rats and 150, 300, and 800 ppm to groups of 50 male or female B6C3F1 mice for 104 weeks. 4,4'-Oxydianiline is used in the manufacture of high temperature–resistant metal adhesives, molding and machine parts, and insulators.

Under the conditions of this bioassay, 4,4'-Oxydianiline was carcinogenic for male and female F344 rats, inducing hepatocellular carcinomas or neoplastic nodules and follicular-cell adenomas or carcinomas of the thyroid. 4,4'-Oxydianiline was also carcinogenic for male and female B6C3F1 mice, inducing adenomas, in the harderian glands, hepatocellular adenomas or carcinomas in both sexes, and follicular-cell adenomas in the thyroid of females.

Single copies of the report, Bioassay of 4,4'-Oxydianiline for Possible Carcinogenicity (T.R. 205), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–27410 Filed 9–18–80; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of Phenol for Possible carcinogenicity; Availability

Phenol (CAS 108–95–2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of phenol to test for possible carcinogenicity was conducted by providing this substance in drinking water to F344 rats and B6C3F1 mice. Phenol has been ranked 38th in production among U.S. chemicals with production of 2.38 billion pounds in 1978. Applications of the chemical include use in the manufacture of phenolic resins.

Under the conditions of this bioassay, phenol was not carcinogenic for either male or female F344 rats or male and female B6C3F1 mice.

Single copies of the report, Bioassay of Phenol for Possible Carcinogenicity (T.R. 203), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80-27412 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Reserpine for Possible Carcinogenicity; Availability

Reserpine (CAS 50-55-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of reserpine, and anti-hypertensive drug for human use, was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice.

It was concluded that, under the conditions of the bioassay, reserpine was carcinogenic in male rats and in mice of both sexes, producing three different kinds of cancers. Reserpine was not carcinogenic for female rats, but they may not have received a high enough dose for maximum test sensitivity.

Single copies of the report, Bioassay of Reserpine for Possible Carcinogenicity (T.R. 193), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80-27411 Filed 9-18-80; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Fish and Wildlife Service Mitigation Policy; Notice of Draft Policy

Correction

In FR Doc. 80-27638 appearing at page 59486 in the issue for Tuesday, September 9, 1980, make the following corrections:

(1) On page 59490, in the first column, under **"Resource Category 1"**, after paragraph *"b. Mitigation Goal"*, the words "No Loss of Habitat" were incorrectly typeset boldface and flush with the margin. This may create the erroneous impression that "No Loss of Habitat" is a new subject heading or is being given extra emphasis. This section of the material should have appeared as follows:

* * * * *

b. *Mitigation Goal.*

No loss of habitat.

Guideline: Losses of those habitat features which justify the designation of unique or irreplaceable habitat must be prevented.

* * * * *

(2) Also on page 59490, in the third column, after **"Resource Category 5"**, paragraph "c. *Mitigation Planning Procedures*" was also formatted incorrectly. This paragraph should have begun with an uppercase "C.", making it a new major subject category in keeping with previous outline of the document. Because of preceding paragraphs "a." and "b.", the use of a lowercase "c." to begin the paragraph creates the false impression that this paragraph, as well as the following paragraphs, are to be grouped under the heading **"Resource Category 5"**. This is not correct. Paragraph "C. *Mitigation Planning Procedures"* begins a new subject section.

(3) In addition, there were numerous other typesetting errors which occurred in the printing of this document that the reader may notice. The items mentioned above were the most substantive and were determined to be critical in terms of document understandability.

BILLING CODE 1505-01-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 12, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 6, 1980.

NEW YORK

Dutchess County

Pawling, *Kane, John, House,* 126 E. Main St.

Sarah G. Oldham,

Acting Chief, Registration Branch.

[FR Doc. 80-28948 Filed 9-18-80; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

[AA-9205-C]

Alaska Native Claims Selection

This decision rejects in part improperly filed State Selections and approves lands in the vicinity of Berner's Bay and Douglas Island for conveyance to Goldbelt, Incorporated, in accordance with the "Exchange Agreement" dated April 11, 1979, between Goldbelt, Incorporated; Sealaska Corporation; the Secretary of the Interior; and the Secretary of Agriculture.

I. State Selections Rejected in Part

On July 19, 1978, the State of Alaska filed selection applications AA-18004 and AA-18008 pursuant to Sec. 6(a) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340, as amended; 48 U.S.C. Ch. 2, Sec. 6(a) (1976)), for certain lands in the vicinity of Berner's Bay and Douglas Island near Juneau, Alaska.

Section 6(a) and Departmental regulations (43 CFR 2627.1) authorize the State to select from lands within national forests in Alaska which are vacant and unappropriated at the time of selection.

Since the lands encompassed in the subject 6(a) applications have been properly withdrawn and selected by Goldbelt, Incorporated under Sec. 14(h)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(h)(3) (1976)) (ANCSA), these lands are not vacant or unappropriated lands pursuant to the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(a)), and State selection applications AA-18004 and AA-18008 are therefore rejected as to the following described lands:

State Selection AA-18008

U.S. Survey No. 2927 situated in the Tongass National Forest on the southerly shore of Echo Cove, Berners Bay.

Containing 21.81 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 37 S., R. 63 E.,

Sec. 12 (fractional), excluding U.S. Survey 2925 and National-Forest-Community-Grant State Selection application AA-6075;

Sec. 13 (fractional), E½, excluding U.S. Survey 1154, U.S. Survey 1157 and National-Forest-Community-Grant State Selection application AA-6075;
Sec. 24, NE¼, excluding National-Forest-Community-Grant State Selection application AA-6075.

Containing approximately 397 acres.

T. 37, S., R. 64 E.,
Sec. 7 (fractional), NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;
Sec. 18 (fractional), NW¼NE¼, S½NE¼, NW¼, S½ excluding U.S. Survey 2927;
Sec. 19, N½;
Sec. 20, NW¼

Containing approximately 988 acres.

State Selection AA-18004

U.S. Survey No. 1096 situated in the Tongass National Forest on Fritz Cove, near Outer Point, on northwest shore of Douglas Island, that portion lying within protracted sections 29 and 30 of T. 41 S., R. 66 E., Copper River Meridian.

Containing approximately 70 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 41 S., R. 66 E.,
Sec. 29 (fractional), W½W½ excluding U.S. Survey 1096 and U.S. Survey 1555, SE¼SW¼;
Sec. 30 (fractional), excluding U.S. Survey 1555 and U.S. Survey 1096;
Sec. 32 (fractional), W½NE¼, W½, SE¼;
Sec. 33, SW¼SW¼.

Containing approximately 427 acres.

T. 42 S., R. 66 E.,
Sec. 4 (fractional), W½NW¼, SE¼NW¼, SW¼, SW¼SE¼;
Sec. 5 (fractional), all;
Sec. 9 (fractional), excluding U.S. Survey 2170 Tract A;
Sec. 10 (fractional), S½NW¼ SW¼, SW¼SE¼;
Sec. 13 S½'
Sec. 14, SW¼NE¼, S½NW¼ excluding Native allotment AA-6636, S½;
Sec. 15 (fractional), excluding Native allotment AA-6636.

Containing approximately 573 acres.

T. 42 S., R. 67 E.,
Sec. 16 (fractional), S½N½ exluding Native allotment AA-7932, S½ excluding Native allotment AA-7932;
Sec. 17 (fractional), S½NE¼; S½NW¼, S½ excluding U.S. Survey 1481;
Sec. 18 (fractional), SW¼SW¼;
Sec. 19 (fractional), excluding U.S. Survey 1640;
Sec. 20 (fractional), excluding U.S. Survey 1640;
Sec. 22 (fractional), all.

Containing approximately 293 acres.

The invalid State selection applications rejected above aggregate approximately 2,770 acres.

Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

II. Lands Proper for Four City Selection, Approved for Interim Conveyance or Patent

On December 17, 1975, Goldbelt, Incorporated, filed selection application AA-9205-C, as amended, under the provisions of Sec. 14(h)(3) of the Alaska Native Claims Settlements Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(h)(3)) (1976) (ANCSA), for the surface estate of lands withdrawn for selection by Goldbelt, Incorporated by Public Land Order 5548 (November 26, 1975), within the Tongass National Forest (Proclamation, February 16, 1909, as amended) located on Admiralty Island, Berner's Bay and Douglas Island.

On April 11, 1979, Goldbelt, Incorporated; Sealaska Corporation; the Secretary of the Interior; and the Secretary of Agriculture entered into an "Exchange Agreement" pursuant to Sec. 22(f) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(f)), as amended by Sec. 17 of Pub. L. 94-204 of January 2, 1976. The agreement provides, among other things, for the exchange of 27,774 acres, more or less, of lands outside of Admiralty Island for all interests in lands held by Goldbelt, Incorporated, on Admiralty Island. Sec. 17 of Pub. L. 94-204 authorizes such exchanges and provides that, ". . . when the parties agree to an exchange and the appropriate Secretary determines it is in the public interest, such exchanges may be made for other than equal value." On September 28, 1979, the exchange lands described in paragraph II A(1) of said "Exchange Agreement" were conveyed to Goldbelt, Incorporated.

Paragraph II B(2) of the above referenced "Exchange Agreement" provides:

. . . In addition to the exchange lands, the Secretary of the Interior agrees that Goldbelt shall be entitled to select a total of 3,422 acres at Berner's Bay and on the west side of Douglas Island from lands heretofore withdrawn by the Secretary of the Interior for such purposes, which selection shall include, but not be limited to, Goldbelt's original off-Admiralty selections.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 2,970 acres, is considered proper for acquisition by Goldbelt, Incorporated, and is hereby approved for conveyance pursuant to Sec. 14(h)(3) of the Alaska Native Claims Settlement Act:

Lands Within the Tongass National Forest

U.S. Survey No. 2927 situated in the Tongass National Forest on the southerly shore of Echo Cove, Berner's Bay.

Containing 21.81 acres.

U.S. Survey No. 1096 situated in the Tongass National Forest on Fritz Cove, near Outer Point, on northwest shore of Douglas Island, that portion lying within protracted sections 29 and 30 of T. 41 S., R. 66 E., Copper River Meridian.

Containing approximately 70 acres.
Aggregating approximately 92 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 37 S., R. 63 E.,
Sec. 12 (fractional), excluding U.S. Survey 2925 and National-Forest-Community-Grant State Selection application AA-6075;
Sec. 13 (fractional), E½, excluding U.S. Survey 1154, U.S. Survey 1157 and National-Forest-Community-Grant State Selection application AA-6075;
Sec. 24, NE¼, excluding National-Forest-Community-Grant State Selection application AA-6075.

Containing approximately 397 acres.

T. 37 S., R. 64 E.,
Sec. 7 (fractional), NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;
Sec. 17, S½SW¼, W½SE¼;
Sec. 18 (fractional), NW¼NE¼, S½NE¼, NW¼, S½ excluding U.S. Survey 2927;
Sec. 19, N½;
Sec. 20, NW¼.

Containing approximately 1,148 acres.

T. 41 S., R. 66 E.
Sec. 29 (fractional), W½W½ excluding U.S. Survey 1096 and U.S. Survey 1555, SE¼SW¼;
Sec. 30 (fractional), excluding U.S. Survey 1555 and U.S. Survey 1096;
Sec. 32 (fractional), W½NE¼, W½, SE¼;
Sec. 33, SW¼SW¼.

Containing approximately 427 acres.

T. 42 S., R. 66 E.
Sec. 4 (fractional), W½NW¼, SE¼NW¼, SW¼, SW¼SE¼;
Sec. 5 (fractional), all;
Sec. 9 (fractional), excluding U.S. Survey 2170 Tract A;
Sec. 10 (fractional), S½NW¼, SW¼, SW¼SE¼;
Sec. 13, S½;
Sec. 14, SW¼NE¼ and S½NW¼ excluding Native allotment AA-6636, N½SE¼;
Sec. 15 (fractional), excluding Native allotment AA-6636.

Containing approximately 573 acres.

T. 42 S., R. 67 E.
Sec. 14, SW¼SW¼;
Sec. 16 (fractional), S½N½ and S½ excluding Native allotment AA-7932;
Sec. 17 (fractional), S½NE¼, S½NW¼, S½ excluding U.S. Survey 1481;
Sec. 18 (fractional), SW¼SW¼;
Sec. 19 (fractional), excluding U.S. Survey 1640;
Sec. 20 (fractional), excluding U.S. Survey 1640;
Sec. 22 (fractional), all.

Containing approximately 333 acres.
Aggregating approximately 2,878 acres.
Total aggregated acreage approximately 2,970 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(h)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 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 AA–9205–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulations. 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)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

100 Foot Proposed Road—The uses allowed on a one-hundred (100) 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. All roads in this category must be proposed for construction within a five-year period. If after the road has been constructed a lesser width is sufficient to accommodate the road, the easement shall be reduced to a 60-foot wide easement.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 5 D3) A one (1) acre site easement upland of the mean high tide line in Sec. 18, T. 37 S., R. 64 E., Copper River Meridian, on the east shore of Echo Cove. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 6 D3) An easement sixty (60) feet in width for an existing road from the Berners Bay terminus of the Glacier Highway in Sec. 18, T. 37 S., R. 64 E., Copper River Meridian, proceeding northerly and thence westerly along the existing road to site EIN 5 D3. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 8 C5, D9, G) An easement sixty (60) feet in width for an existing road from a point on the selection boundary in Sec. 24, T. 37 S., R. 63 E., Copper River Meridian, northeasterly to Sec. 18, T. 37 S., R. 64 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 12 G) An easement one-hundred (100) feet in width for a proposed road from a point of intersection with existing road EIN 8 C5, D9, G in Sec. 24, T. 37 S., R. 63 E., Copper River Meridian, southerly along the west side of Cowee Creek to public lands. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

e. (EIN 20 D1) An easement for a proposed access trail twenty-five (25) feet in width from the beach in Sec. 4, T. 42 S., R. 66 E., Copper River Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 20a C5) A one (1) acre site easement upland of the mean high tide line in Sec. 4, T. 42 S., R. 66 E., Copper River Meridian, on the north shore of Stephens Passage. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 33 G) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 33a in Sec. 17, T. 42 S., R. 67 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 33a C5) A one (1) acre site easement upland of the mean high tide line in Sec. 17, T. 42 S., R. 67 E., Copper River Meridian, on the north shore of Stephens Passage. The uses allowed are those listed above for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed 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. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands; and

4. The following third-party interests, if valid, created and identified by the U.S. Department of Agriculture, Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g)):

a. A special use permit issued to Stock and Grove, Inc., for the purpose of constructing, reconstructing, maintaining, and using a Road Right-of-Way, located in Secs. 29 and 30 of T. 41 S., R. 66 E., Copper River Meridian.

b. A special use permit No. 40–10–03–5037, issued to A. W. Boddy, for the purpose of a residence which is located on the south side of Douglas Island in Sec. 16 of T. 42 S., R. 67 E., Copper River Meridian.

c. A special use permit issued to Gospel Missionary Union for the purpose of constructing, reconstructing, maintaining, and using a Road Right-of-Way located in Secs. 13 and 24, T. 37 S., R. 63 E., Copper River Meridian.

There are no inland water bodies considered to be navigable within the above described lands.

This decision approves approximately 2,970 acres for conveyance to Goldbelt, Incorporated, pursuant to Sec. 14(h)(3) of ANCSA and paragraph II, B(2) of the "Exchange Agreement". Goldbelt's remaining entitlement in Berner's Bay and Douglas Island areas of approximately 452 acres will be approved at a later date.

Conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when

the surface estate is conveyed to Goldbelt, Incorporated, as provided by Sec. 14(h)(3) of ANCSA and paragraph II, C of the "Exchange Agreement" and shall be subject to the same conditions as the surface conveyance.

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 Southeast Alaska Empire. 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 20, 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 parties to be served with a copy of the notice of appeal are:

Goldbelt, Incorporated, 1000 Harbor Way, Juneau, Alaska 99801.

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-28982 Filed 9-18-80; 8:45 am]

BILLING CODE 4210-84-M

[ORE 016183]

Oregon; Proposed Continuation of Withdrawal

Correction

In FR Doc. 80-26272 appearing at page 57550 in the issue for Thursday, August 28, 1980, make the following correction:

(1) On page 57550, in the third column, in the land description for Alder Glenn Recreation Site, in the first line, "T. 3., R. 7 W.," should have read "T. 3 S., R.7 W.,".

(2) Also in the land description for Alder Glenn Recreation Site, delete 6th, 7th and 8th lines and replace them with the following:

* * * * *

T. 3 S., R. 7 W.,
Sec. 32, N½NE¼SW¼ andNE¼NE¼NW¼SW¼.

BILLING CODE 1505-01-M

Office of Surface Mining Reclamation and Enforcement

Public Meeting on the Bureau of Mines' Report on the Control of the Centralia Mine Fire in Columbia County, Pa., and Other Options

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Public meeting on the Bureau of Mines' Report on Control of the Centralia Mine Fire.

SUMMARY: On August 15, 1980, the Bureau of Mines (BOM), acting under an Interagency Agreement, issued a report to the Office of Surface Mining (OSM), Department of the Interior, concerning the control of the Centralia Mine Fire in Columbia County, Pennsylvania. In order to obtain public comment on the BOM report, OSM is holding a public meeting in the town of Centralia, Pennsylvania. This meeting will provide the public an opportunity to comment upon the various options presented by the BOM report as well as a chance to present information on any other viable alternatives for controlling the mine fire.

DATES: The meeting will be held from 7 to 11 p.m. on September 29, 1980, and on September 30, 1980, from 9 a.m. to 12 noon and from 1 p.m. until all speakers have presented their statements, at the address given below. Written statements about the meeting or the *information sheet* must be received by 5:00 p.m. on October 6, 1980, at the address given below.

ADDRESSES: The meeting will be held at the following address: Centralia Municipal Building, North Locust Avenue, Centralia, Pa.

Written statements about the meeting or the information sheet must be mailed or hand delivered to the following address: Office of Surface Mining, U.S. Department of the Interior, 1st Floor, Thomas Hill Building, 950 Kanawha Blvd., East, Charleston, WV 25301.

The information sheet may be obtained from the Office of Surface Mining at the Charleston, West Virginia address as given above, and the transcript of the statements made at the meeting as well as all public comments received will also be available for inspection after the meeting at the above address.

FOR FURTHER INFORMATION CONTACT: Earl R. Cunningham, Office of Surface Mining, U.S. Department of the Interior, 1st Floor, Thomas Hill Building, 950 Kanawha Blvd., East, Charleston, WV 25301 (telephone: 304-343-7649).

SUPPLEMENTAL INFORMATION: A meeting to obtain input from the public on the Bureau of Mines' report on the control of the Centralia Mine Fire and other options will be held in two sessions on September 29 and 30, 1980, at the Centralia, Pennsylvania location given under "Addresses." See time of sessions under "Dates."

The Centralia Mine Fire has been burning since it was discovered in July 1962 in the Buck Mountain coalbed near Centralia, Columbia County, Pa. Geological and mining conditions have created a situation which supplies oxygen to the fire and makes it difficult to control. The continued spread of the fire is presenting a hazard to the town of Centralia.

Potential options that will be considered by OSM include:

1. No action to control fire.
2. Flooding the underground fire zone.
3. Excavation (four options).
4. Hydraulic flush control.
5. Underground mining for barrier construction.
6. Water curtain isolation method.
7. Burnout control.

Other options will be developed after all comments from the meeting have been evaluated. Copies of the BOM Report are available for inspection prior to the meeting at the Municipal Building in Centralia, Pennsylvania.

The participation of the public, all interested government agencies, non-government organizations and associations, and private firms is invited. Speakers will be scheduled in the order that they register at the beginning of each session. Time allotted for speaking will be determined at the beginning of each session on the basis of

the number of persons who have registered to speak. All statements will be recorded, and a transcript of the statements made at the meeting will be available for public review in OSM's Charleston, West Virginia office (see "Addresses"). Written statements may be mailed or hand carried to this same office but must be received no later than the time indicated under "Dates" in order to be considered.

Dated: September 16, 1980.

Paul L. Reeves,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 80-29058 Filed 9-18-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 197]

Hearing Assignment, Correction; Osborn Transportation, Inc.

September 12, 1980.

MC 140389 (Sub-57F), OSBORN TRANSPORTATION, INC., appearing on page 59212, September 8, 1980 is corrected as follows: MC 140389 (Sub-57F), Osborn Transportation, Inc., now being assigned for hearing on December 2, 1980, (9 days) at Atlanta, Ga. (instead of December 12, 1980).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-28975 Filed 9-18-80; 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 and address of principal office:

Bassett Furniture Industries, Inc., Bassett, Virginia 24055.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Bassett Furniture Industries of North Carolina, Inc., Newton, North Carolina 28658.
(b) The E. B. Malone Corporation, Lake Wales, Florida 33853.

1. Parent corporation and address of principal office:

George Banta Company, Inc., Curtis Reed Plaza, Menasha, Wisconsin 54952.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Banta Company, Division of George Banta Company, Inc., Curtis Reed Plaza, Menasha, Wisconsin 54952.
Banta Company, Inc.—Harrisonburg, 3330 Willow Spring Road, Harrisonburg, Virginia 22801.
The Columbus Bank Note Company, 6250 Shier-Rings Road, Dublin, Ohio 43017.
Daniels Packaging Company, Inc., 114 W. Kemp Street, Rhinelander, Wisconsin 54501.
The Hart Press, Inc., 333 Central Avenue, Long Prairie, Minnesota 56347.
KCS Industries, Inc., 5111 South Ninth Street, Milwaukee, Wisconsin 53221.
Ling Products, Inc., 1271 Gillingham Road, Neenah, Wisconsin 54956.
Northwestern Colorgraphics, Inc., 1457 Earl Street, Menasha, Wisconsin 54952.

1. Parent corporation and address of principal office: Beverage Management, Inc., 1001 Kingsmill Parkway, Columbus, Ohio 43229.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) The Perfecto Distributing Company, 1001 Kingsmill Parkway, Columbus, Ohio 43229;
(b) Polar Water Company, 1001 Kingsmill Parkway, Columbus, Ohio 43229;
(c) The Athens Bottling Company, 1001 Kingsmill Parkway, Columbus, Ohio 43229.

Parent corporation and address of principal office:

Borg-Warner Corporation, 200 South Michigan Avenue; Chicago, IL 60604.

Wholly owned subsidiaries which will participate in the operations:

Baker Industries, 1633 Littleton Road, Parsippany, NJ 07054.
Borg-Warner Acceptance Corp., One IBM Plaza, Chicago, IL 60611.
Borg-Warner Health Products, Inc., 2429 Schuetz Road, Maryland Heights, MO 28226.
Borg-Warner International, 200 South Michigan Avenue, Chicago, IL 60604.
Borg-Warner Investment Corporation, 200 South Michigan Avenue, Chicago, IL 60604.

1. Parent corporation and address of principal office:

Buchanan Electrical Sales Co., 11345 Century Circle, Cincinnati, OH 45246.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Buchanan Electric, Inc., 11345 Century Circle, Cincinnati, OH 45246.
(b) Buchanan Marketing Corp., 11345 Century Circle, Cincinnati, OH 45246.
(c) Cable TV Grounding Systems, Inc., 11345 Century Circle, Cincinnati, OH 45246.

Parent corporation:

Caraustar Industries, Inc., P.O. Box 115, Austell, Georgia 30001.

Wholly owned subsidiaries which will participate in the operations:

Austell Box Board Corporation, P.O. Box 157, Austell, Georgia 30001.
Sweetwater Paper Board Co., Inc., P.O. Box 665, Austell, Georgia 30001.
Carolina Paper Board Corporation P.O., Box 8305, Charlotte, North Carolina
Carotell Paper Board Corporation P.O., Box 655, Taylors, South Carolina 29687.
Chesapeake Paper Stock Co. P.O., Box 482, Charlotte, North Carolina 28201.
Atlantic Coast Carton Co. P.O., Box 8607, Charlotte, North Carolina 28208.
Star Paper Tube, Inc., P.O. Drawer 2646, Rock Hill, South Carolina 29730.
Paper Recycling, Inc., 4069 Winters Chapel Road; P.O. Box 48354, Doraville, Georgia 30362.
Macon Recycling, Inc., P.O. Box 44, Macon, Georgia 31202.
Columbus Recycling, Inc., P.O. Box 7986, Columbus, Georgia 31908.
Dixie Waste Paper Co., P.O. Box 1395, Greenville, South Carolina 29601.

(1) The parent corporation and address of the principal office:

Dairymen, Inc., 10140 Linn Station Road, Louisville, KY 40223.

(2) Wholly owned subsidiaries which will participate in the operation, and address of their respective principal offices:

(a) Flav-O-Rich, Inc., 10140 Linn Station Road, Louisville, KY 40223.
(b) D.I. Tank Service, Inc., P.O. Box 90162, Nashville, TN 37209.

1. Parent corporation and address of principal office:

DeKalb AgResearch, Inc., Sycamore Road, DeKalb, IL 60115.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) DeKalb Swine Breeders, Inc., Sycamore Road, DeKalb, IL 60115.
(b) Lindsay Manufacturing Company, P.O. Box 156, Lindsay, NE 68644.

1. Parent corporation and address of principal office:

J.F. Donovan, Inc., 252 Allens Avenue, Providence, RI 02905.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) A.R.S. Chemical Corporation, 252 Allens Avenue, Providence, RI 02905.

1. Name of parent corporation and address of principal office:

Ethyl Corporation, 330 South Fourth Street, P.O. Box 2189, Richmond, VA 23217.

2. Wholly owned subsidiaries which will participate in the operations and

address of their respective principal offices:

A. The William L. Bonnell Co., Inc., 25 Bonnell Street, P.O. Box 428, Newnan, GA 30263.
B. Capitol Products Corporation, Carlisle Pike, P.O. Box 69, Mechanicsburg, PA 17055.
C. Edwin Cooper Division, Edwin Cooper, Inc., 1525 South Broadway, St. Louis, MO 63104.
D. Elk Horn Coal Corporation, 330 South Fourth Street, P.O. Box 2189, Richmond, VA 23217.
E. Hardwicke Chemical Company, Route 2, Box 50–A, Elgin, SC 29045.
F. Ethyl Development Corporation, 4240 Blue Ridge Blvd., Kansas City, MO 64133.
G. Ethyl Products Company, 330 South Fourth Street, Richmond, VA 23217.
1. Massie Tool & Mold, Inc., 2401 72nd Street, North, St. Petersburg, Florida 33710.
a. Modern Technical Molding, Inc., 2401 72nd Street, North, St. Petersburg, Florida 33710.
H. Saytech, Inc., 25 Kimberly Road, East Brunswick, N.J. 00816.

Name and address of parent corporation:

G & H Equipment Co., Inc., P.O. Drawer 20350, San Antonio, Texas 78286.

Wholly owned subsidiaries:

Commercial Contracting Company of San Antonio, Inc.
Commercial Channel & Dock Company
CDK Contracting Company
SMC Contracting Company
Industrial Mechanical, Inc.
F & E Erection Co., Inc.
ADCO Electric Co., Inc.

1. Parent corporation and address of principal office:

Gould Inc., 10 Gould Center, Rolling Meadows, IL 60008.

2. Wholly owned subsidiary which will participate in the operations, and address of its principal office:

ITE Imperial Corporation, 10 Gould Center, Rolling Meadows, IL 60008.

1. Parent corporation:

Imperial International, Inc. is the parent corporation, and the address of its principal office is 3565 Torrance Blvd., Torrance, CA. 90503.

2. The wholly owned subsidiaries which will participate in the operations and the addresses of their principal offices are:

Imperial Van Lines International Inc., 2805 Columbia St., Torrance, CA 90503
Imperial Van Lines, Inc., 2805 Columbia St., Torrance, CA 90503;
Imperial Van Lines, Inc., West 2805 Columbia St., Torrance, CA 90503;
Imperial Van Lines, Inc., of California 2805 Columbia St., Torrance, CA 90503;
Jungle Growth Products, Inc., 2805 Columbia St., Torrance, CA 90503;
Thru-Container International, Inc., One Industrial Park Rd. Hammond, LA 70404;
Imperial Enterprises of Louisiana, Inc., One Industrial Park Rd. Hammond, LA 70404.

1. Parent corporation:

Interco Incorporated ("Interco"), a Delaware corporation, Ten Broadway, St. Louis, Missouri 63102.

2. Subsidiaries and divisions in which Interco owns directly or indirectly a 100 percent interest.

Alcove Westland, Inc.
Alcove Twelve Oaks, Inc.
Alberts Twelve Oaks, Inc.
Alcove Maple Hill, Inc.
Albert's Eastland Corporation
Alberts Maple Hill, Inc.
Albert's Greenfield, Inc.
Albert's Fort Mall, Inc.
Albert's Dix, Inc.
Albert's St. Clair, Inc.
Alberts Schaefer, Inc.
Alberts Southfield, Inc.
Alberts Westnedge, Inc.
Alberts Westwood, Inc.
Albert's Woodward, Inc.
Alberts Village Plaza, Inc.
Albert's Gratiot, Inc.
Alcove Southland, Inc.
Albert's Woodland, Inc.
Albert's Winchester, Inc.
Albert's Rawsonville, Inc.
Albert's North Kent, Inc.
Alcove Meadowbrook, Inc.
Alcove Eastland, Inc.
Alcove Roseville, Inc.
Alcove Randall Park, Inc.
The Alcove, Inc.
Alcove Great Northern Inc.
Alberts Euclid Square, Inc.
Albert's Inc.
Albert's Westgate, Inc.
Albert K. Cherryvale Inc.
Albert K Hawthorn, Inc.
Albert K Lakehurst, Inc.
Albert K Lincoln, Inc.
Albert K Joliet, Inc.
Alberts Crestwood, Inc.
Albert K Orland Square Inc.
Albert K Yorktown Inc.
Albert K Evergreen, Inc.
Alcove Merrillville, Inc.
Alberts Florence, Inc.
Alberts Northwest, Inc.
Delmar Sportswear, Inc.
Big Yank Corporation
Patriot Investment Company
Fine's Men's Shops, Inc.
R. A. F. Corporation
United Shirt Distributors, Inc.
Golde's Department Stores, Inc.
Formatz Sales Company
Cowden Manufacturing Company
Stuffed Shirt/Stuffed Jeans, Inc.
Queen Casuals, Inc.
Northeast Factory Outlet
Londontown Corporation
Matthew Manufacturing Company
Star Sportswear Manufacturing Corp.
The Scranton Outlet Corporation
Washington Holding Company
Sky City Stores, Inc.
International Hat Company
The Lone Star Hat Company
Central Hardware Company
Witte Hardware Corporation
Sidney Gould Co., Ltd.
Village Industries, Inc.
Lease Management, Inc.
Eagle Family Discount Stores, Inc.
The Biltwell Company, Inc.
Ace Sweater Mills, Inc.
Campus Sweater & Sportswear Export Company
Carolina Sportswear Company
Chester Sportswear Company
Creedmoor Sportswear Company
Ellwood Knitting Mills, Inc.
Warren Shirt Company
Donegal Sportswear Co.
St. Paul Sportswear Company
Label Corp.
LaCrosse Label Corporation
Kenbridge Sportswear Company
LaCrosse Sportswear Corporation
Lexington Sportswear Company
Louisburg Sportswear Company
Morgan Sportswear Company
Olympic Sweater & Sportswear Company
Southampton Sportswear Corporation
Swainsboro Sportswear Company
Campus Far East Company
Flat Rock Manufacturing Company
The Florsheim Shoe Store Company of Fairfield
The Florsheim Shoe Store Company of Santa Barbara
The Florsheim Shoe Store Company of Merle Hay Mall
Florsheim Caribbean, Ltd.
The Florsheim Shoe Store Company of Sacramento, California, Ltd.
The Florsheim Shoe Store Company of San Diego, Ltd
The Florsheim Shoe Company of California
Thayer McNeil Shoe Company of San Mateo
The Florsheim Shoe Store Company of Tremont
The Florsheim Shoe Store Company of Waterbury
The Florsheim Shoe Store Company of Clarence, N.Y. Inc.
The Florsheim Shoe Store Company of Dadeland, Florida
The Florsheim Shoe Store Company of Georgia
The Chicago Florsheim Shoe Store
The Florsheim Shoe Store Company of Lafayett Square, Inc.
The Florsheim Shoe Store Company of Braintree, Inc.
The Florsheim Shoe Store Company of Woodland
The Florsheim Shoe Store Company of Brookdale, Minnesota
The Florsheim Shoe Store Company of Oxmoor
The Florsheim Shoe Store Company of Southdale
The Florsheim Shoe Store Company of New Orleans, Inc.
The Florsheim Shoe Store Company of Baltimore
The Florsheim Shoe Store Company of St. Paul, Minnesota
The Florsheim Shoe Store Company of West County
L. J. O'Neill Shoe Company
The Florsheim Shoe Store Company of Moorestown
The Florsheim Shoe Store Co., Inc.
The Florsheim Shoe Store Company of Livingston
The Florsheim Shoe Store Company of Sunrise Mall, Inc.
The Florsheim Shoe Store Company of Akron, Ohio

The Florsheim Shoe Store Company of Canton
The Florsheim Shoe Store Company of Cincinnati
The Florsheim Shoe Company of Cleveland Heights, Ohio
The Florsheim Shoe Store Company of Cleveland, Ohio
The Florsheim Shoe Store Company of Eastland
The Florsheim Shoe Store Company of Westland
The Cleveland Florsheim Shoe Company
The Florsheim Shoe Store Company of Fairview
The Florsheim Shoe Store Company of Mentor
The Florsheim Shoe Store Company of Franklin Park
The Florsheim Shoe Store Company of Shepard Mall
The Florsheim Shoe Store Company of Alder Street
The Florsheim Shoe Store Company of Lloyd Center
The Florsheim Shoe Store Company of Neshaminy
The Florsheim Shoe Store Company of Monroeville
Thayer McNeil Shoe Company of Pittsburgh
The Florsheim Shoe Store Company of Warwick
The Florsheim Shoe Store Company of Whitehaven, Tennessee
Bowen-Tennessee Shoe Corporation
The Florsheim Shoe Store Company of North Park
The Florsheim Shoe Store Company of Houston, Texas
The Florsheim Shoe Store Company of Memorial City
The Florsheim Shoe Store Company (Salt Lake)
The Florsheim Shoe Store Company Incorporated of Richmond, Virginia
The Florsheim Shoe Store Company of Cloverleaf
The Florsheim Shoe Store Company of South Center
The Florsheim Shoe Store Company of Brookfield, Inc.
Duane's Miami Corporation
Duane's East, Inc.
Duane's Florida Corporation
Bowen–Arizona Corporation
Bowen–Dallas
Thompson, Boland & Lee, Inc.
Paul's Shoes, Inc.
Phelps Shoes of Shreveport, Inc.
Miller Taylor Shoe Company
Senack Shoes, Inc.
Senack Shoes of Alabama, Inc.
Senack Shoes of Arkansas, Inc.
Senack Shoes of California, Inc.
Senack Shoes of Georgia, Inc.
Senack Shoes of Illinois, Inc.
Keith O'Brien of Colorado, Inc.
Senack Shoes of Virginia, Inc.
Senack Shoes of West Virginia, Inc.
Senack Shoes of Wisconsin, Inc.
Senack Shoes of Indiana, Inc.
Senack Shoes of Iowa, Inc.
Senack Shoes of Kansas, Inc.
Senack Shoes of Kentucky, Inc.
Senack Shoes of Louisiana, Inc.
Senack Shoes of Maryland, Inc.
Senack Shoes of Minnesota, Inc.
Senack Shoes of Mississippi, Inc.
Senack Shoes of Missouri, Inc.
Senack Shoes of Nebraska, Inc.
Senack Shoes of New Mexico, Inc.
Senack Shoes of New York, Inc.
Senack Shoes of Northeast, Inc.
Senack Shoes of Ohio, Inc.
Senack Shoes of Oklahoma, Inc.
Senack Shoes of Tennessee, Inc.
Senack Shoes of Texas, Inc.
P. N. Hirsch & Co.
P. N. Hirsch & Co. of Indiana, Inc.
P. N. Hirsch & Co. of Iowa, Inc.
Idaho Department Store Co.
P. N. Hirsch & Co. of Kentucky, Inc.
Wigwam Stores Ltd.
Keith O'Brien Stores, Inc.
Keith O'Brien, Inc.
P. N. Hirsch & Co. of New York, Inc.
P. N. Hirsch & Co. Stores, Inc.
Carithers Stores, Inc.
Keith O'Brien Investment Company
Shainberg's Stores of Mississippi, Inc.
Shainberg's Stores of Tennessee, Inc.
Ethan Allen Inc.
Georgetown Manor Carriage House, Inc.
Andover Wood Products, Inc.
Carriage House Furnitures, Inc.
Concord House, Inc.
EA Enterprises, Inc.
EA Showcase Stores Corp.
EA Showcase Stores (Ala.), Inc.
EA Showcase Stores (Mass.), Inc.
Ethan Allen Adco, Inc.
Ethan Allen Hotels Corp. of Vermont
Fiscal Credit Corp.
Houston Carriage House, Inc.
Lake Avenue Associates, Inc.
Lexington Manor, Inc.
Northeast Consolidated, Inc.
Olinda Furniture, Inc.
Riverside Water Works, Inc.
Sepulveda Corp.
KEA International Inc.
Knob Creek, Inc.
Inter-Fibres, Inc.
Masterpiece Reproduction, Inc.
London Fog Sportwear, Inc.
International Shoe Company
The Florsheim Shoe Company
Devon Apparel
College-Town
P. N. Hirsch & Co.
Campus Sweater & Sportwear Company

1. Parent corporation and address of principal office:

Louisiana-Pacific Corporation, 1300 S.W. Fifth Avenue, Portland, OR 97201.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Fibreboard Corporation, 1300 S.W. Fifth Avenue, Portland, OR 97201.

(1) Parent corporation:

Manitowoc Company, Inc. ("Manitowoc"), Manitowoc, Wisconsin, a Wisconsin Corporation.

(2) That the following named companies are now, and have always been, wholly owned (100 percent) subsidiaries of Manitowoc.

Manitowoc Shipbuilding, Inc.
Bay Shipbuilding Corp.
Manitowoc International Corp.
Manitowoc-Forsythe Corp.

1. Parent corporation and address of principal office:

Pennwalt Corporation, Three Parkway, Philadelphia, PA 19102.

2. Wholly owned subsidiaries and operating divisions which will participate in the operations and address of their respective principal offices:

a. Pennwalt Chemical Specialties Division, Three Parkway, Philadelphia, PA 19102.
b. Pennwalt of Canada, Limited, 700 Third Line, Oakville, Ontario L6J 5A3 Canada.
c. Pennwalt Food & Agricultural Division, Three Parkway, Philadelphia, PA 19102.
d. Cooks Industrial Lubricants, 5 North Stiles Street, Linden, NJ 07036.
e. Mayo Products Company, 5544 Oakdale Road, S.E., Atlanta, GA 30080.
f. Pennwalt Flour Service Division, Three Parkway, Philadelphia, PA 19102.
g. Pennwalt Fluorochemicals Division, Three Parkway, Philadelphia, PA 19102.
h. Pennwalt Organic Chemicals, Three Parkway, Philadelphia, PA 19102.
i. Pennwalt Inorganic Chemicals Division, Three Parkway, Philadelphia, PA 19102.
j. Pennwalt International Chemicals Operations, Three Parkway, Philadelphia, PA 19102.
k. Pennwalt Specialty Chemicals International, Three Parkway, Philadelphia, PA 19102.
l. Pennwalt International Corp.—Western Hemisphere, Three Parkway, Philadelphia, PA 19102.
m. Pennwalt Lucidol Division, 1740 Military Road, Buffalo, NY 14240.
n. Ozark-Mahoning Company, 1870 South Boulder, Tulsa, OK 74119.
o. Automatic Power, Inc., 213 Hutchison Street, Houston, Texas 77023.
p. CVI Corporation, P.O. Box 2138, Columbus, Ohio 43216.
q. Barnebey-Cheney Company, 813-835 North Cassady Avenue, Columbus, Ohio 43219.
r. Pennwalt Sharples-Stokes Division, 955 Mearns Road, Warminster, Pa. 18974.
s. Pennwalt Stokes Division, 5500 Tabor Road, Philadelphia, Pa. 19120.
t. Pennwalt Wallace & Tiernan Division, 25 Main Street, Belleville, New Jersey 07109.
u. S.S. White-Industrial Products Division, 151 Old New Brunswick Road, Piscataway, New Jersey 08854.
v. Pennwalt J.F. Jelenko Dental Division, 99 Business Park Drive, Armonk, N.Y. 10504.
w. Pennwalt Pharmaceutical Division, 755 Jefferson Road, Rochester, N.Y. 14623.
x. Pennwalt S.S. White Dental Division, Three Parkway, Philadelphia, Pa. 19102.
y. Pennwalt S.S. White Products International, Three Parkway, Philadelphia, Pa. 19102.
z. B.F. Wehmer Co. Inc., 10005 Franklin Avenue, Franklin Park, Ill. 60131.
aa. Pennwalt Carriers Corp., Suite 1780, One Washington Plaza, Tacoma, WA 98402.
bb. Wyandotte Southern Railroad Co., 4655 Biddle Avenue, Wyandotte, MI 48192.

1. Parent corporation and address of principal office:

Norton Simon, Inc., 277 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) Avis, Inc., 1114 Avenue of the Americas, New York, New York 10036.
(b) Canada Dry Corporation, 100 Park Avenue, New York, New York 10017.
(c) Glass Containers Corporation, 535 North Gilbert Avenue, Fullerton, California 92634.
(d) Halston Enterprises, Inc., 645 Fifth Avenue, New York, New York 10022.
(e) Hunt-Wesson Foods, Inc., 1645 West Valencia Drive, Fullerton, California 92634.
(f) Max Factor & Co., 1655 North McCadden Place, Los Angeles, California 90028.
(g) McCall Pattern Company, The, 230 Park Avenue, New York, New York 10017.
(h) Somerset Importers, Ltd., 1114 Avenue of the Americas, New York, New York 10036.
(i) United Can Company, 2600 East Nutwood, Suite 900, Fullerton, California 92634.

1. Parent corporation:

McCormick & Company, Incorporated, a Maryland based manufacturer.
All Portions, Inc., Ampacco, Inc., Gilroy Foods, Incorporated, Golden West Foods, Inc.
Han-Dee Pak, Inc., Tubed Products, Inc., TV Time Foods, Inc.

1. Parent company:

Ringling Bros.-Barnum & Bailey Combined Shows, Inc., 3201 New Mexico Avenue NW., Washington, D.C. 20016.

2. Wholly owned subsidiary:

Ice Follies and Holiday on Ice, Inc., 3201 New Mexico Avenue NW., Washington, D.C. 20016.

1. Parent corporation and address of principal office:

Southwire Company, P.O. Box 1000, Fertilla St., Carrollton, Georgia 30119.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective offices.

(A) Wyre Wynd Inc., Anthony Street, Jewett City, Connecticut 06351.
(B) Kagan Dixon Wire Corp., Sutton Metro Park, 33 Wood Avenue South, Iselin, N.J. 08830.

Parent corporation:

Sun Company, Inc., 100 Matsonford Road, Radnor, Pennsylvania 19087.

Wholly owned subsidiaries:

American Electric Company, 314 North 3rd, St. Joseph, MO 04502.
Anchor Red Ash Coal Corporation, 4711 Old Kingston Pike, Knoxville, TN 37919.
Applied Financial Systems, Inc., 155 Bovet Road, San Mateo, CA 94402.
Atlas Screw Specialty Co., Inc., 630 Dowd Avenue, Elizabeth, NJ 07201.
Big Top Market, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Bighorn Ranch, Inc., 12700 Park Central Place, Suite 1500, Dallas, TX 75251.
Buckeye Marketers, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Carboline Company, 350 Hanley Industrial Court, St. Louis, MO 63144.
Carrier Systems, Inc., 11th Floor, 2000 Market Street, Philadelphia, PA 19103.
Casual Food Stores, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Catallactics Corporation, 11 Salt Creek Lane, Hinsdale, IL 60521.
Clover Coal Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Cochran-Dean Co., 6907 Alder, Houston, TX.
Cordero Mining Co., 12700 Park Central Place, Suite 1500, Dallas, TX 75251.
Cumberland Collieries, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Delaware Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Delaware Valley Marine Agency and Repair, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Diversified Retailers, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Dominion Coal Corporation, 4711 Old Kingston Pike, Knoxville, TN 37919.
Dorman Products, Inc., 10000 Alliance Drive, Cincinnati, OH 45242.
Eastern Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
El Taino Operations, Inc., 100 West Tenth Street, Wilmington, DE 19801.
Elk River Resources, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Enexco, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Fast Fare, Inc., Ruin Creek Road, Henderson, NC 27536.
Fast Fare Markets of N.C., Inc., Ruin Creek Road, Henderson, NC 27536.
Fast Fare Markets of S.C., Inc., Ruin Creek Road, Henderson, NC 27536.
Financial Independents, Inc., 1021 Maryland Avenue, Dolton, IL 60419.
Florida Barge Company, 1200 Philadelphia Pike, Wilmington, DE 19809.
Fourleaf Coal Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Freedom Coal Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
General Industrial Supply Corp., 108 Industrial Avenue, Ft. Worth, TX 76101.
Glacier Bay Transportation Corporation, 926 Public Leger Bldg., Philadelphia, PA 19106.
Greenleaf Equipment Company, 4711 Old Kingston Pike, Knoxville, TN 37919.
Greenwood Land & Mining Company, 4711 Old Kingston Pike, Knoxville, TN 37919.
Gulf Coast Marine Agents, Inc., Sun Terminal, Nederland, TX 77627.
Gulf Coast Marine Fueling, Inc., Sun Terminal, Nederland, TX 77627.
H. H. Palmer, Inc., 711 E. Nield Street, West Chester, PA 19380.
Hall Lumber Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Herr Gas & Oil Co., R.D. #2, Shamokin, PA 17872.
Hoosier Stop-N-Go, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Hotchkiss Oil Company, Incorporated, P.O. Box 698, Fredericksburg, VA 22401.
Independent Bank Computer Corporation, 547 W. State Route 120, Volo, Illinois.
J-C, Inc., 1845 Walnut Street, Philadelphia, PA 19103.
J.M.J. Enterprises, Inc., 12 W. Wenger Road, Englewood, OH 45322.
J. N. Fauver Co., Inc., 1500 East Avis Drive, Madison Heights, MI 48071.
Jewell Coal and Coke Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Jewell Resources Corporation, 4711 Old Kingston Pike, Knoxville, TN 37919.
Jewell Smokeless Coal Corporation, 4711 Old Kingston Pike, Knoxville, TN 37919.
Jewell Supply Company, 4711 Old Kingston Pike, Knoxville, TN 37919.
Jones Truck Lines, Inc., 610 East Emma Avenue, Springdale, AR 72764.
Kar Products, Inc., 461 North Third Avenue, Des Plaines, IL 60016.
Kelly Company, 3867 Derry Street, Harrisburg, PA 17111.
Kenco Petroleum Marketers, Incorporated, Highway 421, West, Greensboro, NC 27409.
Kwik-Pik Realty, Inc., Ruin Creek Road, Henderson, NC 27536.
Lansing-Lewis Company, 636 East Michigan Avenue, Lansing, MI 48904.
Lou Petroleum Company, Sun Terminal, Nederland, TX 77627.
Lou Towing Company, Sun Terminal, Nederland, TX 77627.
Marble Falls Gas Co., 1200 Milam, Suite 2846, Houston, TX 77002.
Maryland Sun Shipping Co., Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Mascot Petroleum Company, 1608 Walnut Street, Philadelphia, PA 19103.
Mid-Continent Pipe Line Company, 907 South Detroit Avenue, Tulsa, OK 74120.
Mid-State Oil Company, 1820 South Main Street, Lexington, NC 27292.
Millcreek Leasing Corporation, 1200 Philadelphia Pike, Wilmington, DE 19809.
Milne Truck Lines, Inc., 2500 West California Avenue, Salt Lake City, UT 84104.
Minnisink Oil Company, Inc., 260 State Highway 10, Whippany, NJ 07981.
Mr. Zip, Inc., 8045 Howard Street, Spartanburg, SC
Modern Oil Company, 3630 North Boulevard, Raleigh, NC 27604.
Mohawk Valley Oil, Inc., 832 Union Street, Utica, NY 13501.
Montour Auto Service Company, 112 Broad Street, Montoursville, PA 17754.
New Jersey Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
New York Sun Shipping Co., Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
NMF, Inc., 4822 Albermarle Road, Charlotte, NC 28205.
Northern Sun Shipping Co., Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Oakwood Red Ash Coal Corporation, 4711 Old Kingston Pike, Knoxville, TN 37919.
Oneida Coal Company, Inc., 4711 Old Kingston Pike, Knoxville, TN 37919.
Pennsylvania Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Planters Fertilizer Company, Inc. 907 South Detroit Avenue, Tulsa, OK 74120.
Plymouth Coal Company, Inc. 4711 Old Kingston Pike, Knoxville, Tennessee 37919.
Radep Pipeline Company, Montgomery, Alabama.
Reamco, Inc., U.S. Highway 90, East Lafayette, LA 70505.
St. Johnsbury Trucking Company, Inc., 87 Jeffrey Avenue, Holliston, MA 01746.

Shamrock Coal Company, Incorporated, 4711 Old Kingston Pike, Knoxville, Tennesee 37919.
Shamrock Resources Corporation, 4711 Old Kingston Pike, Knoxville, Tennessee 37919.
Sioux Foods, Inc., 12 W. Wenger Road, Englewood, OH 45322.
S.J.T., Inc., 87 Jeffrey Avenue, Holliston, MA 01746.
SJT Real Estate Holding Co., Inc., 87 Jeffrey Avenue, Holliston, MA 01746.
Smith Oil Corporation, 1100 Kilburn Avenue, Rockford, IL 61101.
Sound Shipping, Inc., 100 West Tenth Street, Wilmington, DE 19801.
Sperry-Sun Companies, 104 Industrial Rd, Sugar Land, TX 77478.
Sperry-Sun Do Brazil-Servicos Tecnicos LTDA., 99 Avenida Rio Branco 8th Floor, Suite 5 Rio de Janeiro, State of Rio de Janeiro, Brazil.
Sperry-Sun International, Inc., P.O. Box 69, Sugar Land, TX 77478.
Sperry-Sun of Canada, LTD., 9744–45th Avenue, Edmonton, Alberta, Canada T6E 4S8.
Stop-N-Go Foods, Inc., 1608 Walnut Street, Philadelphia, PA 19103.
Stop-N-Go Food of Dayton, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Stop-N-Go, Inc., 12 W. Wenger Road, Englewood, OH 45322.
Stop-N-Go of Ohio, Inc., 12. W. Wenger Road, Englewood, OH 45322.
Stop-N-Go of Southern Minnesota, Inc., 12 W. Wenger Road Englewood, OH 45322.
Sun Barge Company, 1200 Philadelphia Pike, Wilmington, DE 19809.
Sun Coolant Control, Inc. 1608 Walnut Street, Philadelphia, PA 19103.
Sun Distributors, Inc. 30 South 17th Street, Philadelphia, PA 19103.
Sun Gas Company, a division of Sun Oil Company (Delaware), 2 North Park East, P.O. Box 20, Dallas, TX 75221.
Sun Gas Gathering Company, Inc., Three North Park East, Dallas, TX 75231.
Sun Gas Liquids, Inc., 5800 East Skelly Drive Tulsa, OK 74102.
Sun Gas Terminals and Storage, Inc., 5800 East Skelly Drive, Tulsa, OK 74135.
Sun Gas Terminals and Storage (Pa.,) Inc., 137 West Wayne Avenue, Wayne, PA 19087.
Sun Information Services Company, 656 E. Swedesford Road, Wayne, PA 19087.
Sun Information Services of Kentucky, Inc., 6600 Grade Lane, Louisville, KY 40221.
Sun International, Inc., 200 W. Lancaster Avenue, Wayne, PA 19087.
Sun Nitrogen Products, Inc., 2 Northpark East, Dallas, TX 75231.
Sun Ocean Ventures, Inc., 100 West Tenth Street, Wilmington, DE 19801
Sun Oil Company (Delaware), Campbell Centre II—Room 2026, 8150 North Central Expressway, Dallas, TX 75206.
Sun Oil Company of Pennsylvania, 1608 Walnut Street, Philadelphia, PA 19103
Sun Oil Line Company of Michigan, Oregon Township, Lucas County, OH 43601.
Sun Oil Power Services Company 1608 Walnut Street, Philadelphia, PA 19103.
Sun Oil Trading Company, 200 W. Lancaster Avenue, Wayne, PA 19087.
Sun Petroleum Products Company, a Division of Sun Oil Company of Pennsylvania, 1608 Walnut Street, Philadelphia, PA 19103.
Sun Pipe Line Company, 907 S. Detroit Avenue, Tulsa, OK 74120.
Sun Pipe Line Services Co., 907 South Detroit Avenue, Tulsa, OK 74120.
Sun Production Company, A Division of Sun Oil Company (Delaware), 8150 North Central Expressway P.O. Box 2880, Dallas, TX 75221.
Sun Ship, Inc., Foot of Morton Avenue, Chester, PA 19013.
Sun Transport, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Suncrest Industries, Inc., 312 South York Road, Hatboro, PA 19040.
Sunedco Coal Co. 12700 Park Central Place, Suite 1500, Dallas, TX 75251.
Sunmark Exploration Company, a Division of Sun Oil Company (Delaware), 4600 N. Fuller Drive, Irving, TX 75062.
Sunmark Industries, A Division of Sun Oil Company of Pennsylvania, 1845 Walnut Street, Philadelphia, PA 19101.
Sunoco Disc, Inc., 200 W. Lancaster Avenue, Wayne, PA 19087.
Sunoco Energy Development Co., 12700 Park Central Place, Suite 1500, Dallas, TX 75251.
Sunoco Overseas, Inc., 200 W. Lancaster Avenue, Wayne, PA 19087.
Sunoco Terminals, Inc., Sun Terminal, Nederland, TX 77627.
Sunoco Terminals of Baltimore, Inc., Sunoco Terminals, Inc., Madison Building, Chesley Drive, Media, PA 19063.
Super-Go Marketers, Inc. 12 W. Wenger Road, Englewood, OH 45322.
Suntech, Inc., 1608 Walnut Street, Philadelphia, PA 19103
Sweetwater Coal Development Co., 12700 Park Central Place, Suite 1500, Dallas, TX 75251.
Texas Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
The Weiland Computer Group, Incorporated, 1515 W. 22nd Street, Suite 950, Oak Brook, IL 60521.
Thill Oil Company, Inc., 2685 Holton Road, North Muskegon, MI 49445.
Tiny Tote, Inc., Ruin Creek Road, Henderson, NC 27536.
Totem Ocean Trailer Express, Inc., 1100 Olive Way, Suite 201, Seattle, WA 98101.
Travelers Oil Company, Inc., 3434 Carolina Beach Road, Wilmington, NC 28401.
Tri-State Stop-N-Go, Inc. 12 W. Wenger Road, Englewood, OH 45322.
TTT, Inc., 100 West Tenth Street, Wilmington, DE 19801.
Vansant Coal Corporation, 4711 Old Kingston Pike, Knoxville, Tennessee 37919.
Virginia Sun Shipping Co., Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Walter Norris Corporation, 7800 North Merrimac, Niles, IL 60648.
West Virginia Resources Corporation, 4711 Old Kingston Pike, Knoxville, Tennessee 37919.
Western Sun Shipping, Inc., 1200 Philadelphia Pike, Wilmington, DE 19809.
Wolf Creek Coal Company, 4711 Old Kingston Pike, Knoxville, Tennessee 37919.
Your Party Stores, Inc. 228 Byers Road, Mianisburg, OH 45342.
Zelso, Inc., 87 Jeffrey Avenue, Holliston, MA 01746.

1. The name and address of the principal office of the parent corporation is:

Thomas & Howard Company of Hickory, Inc., 1200 Burris Road, P.O. Box 428, Newton, North Carolina 28658.

2. The wholly-owned subsidiaries which will participate in the operations and the addresses of their respective principal offices are:

The Best of Beers, Inc., P.O. Drawer 159, U.S. Highway 321 North, Hickory, N.C. 28601.
Quality Beers, Inc., P.O. Drawer 159, 1040 Maine Avenue NW., Hickory, N.C. 28601.

I. Parent corporation and address of principal office:

Allen Process Corporation, 3401 Rochester Road, Lakeville, New York 14480.

II. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Trans-Sweet, Inc., 3401 Rochester Road, Lakeville, New York 14480.
(2) Western New York Syrup Corporation, 3401 Rochester Road, Lakeville, New York 14480.

1. Parent corporation and address of principal office:

U.B. (Holdings) U.S. Ltd., 450 Park Avenue, Suite 2403, New York, N.Y. 10022.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Keebler Company, One Hollow Tree Lane, Elmhurst, Ill. 60126.
(b) Johnston's Ready-Crust Company, 677 Larch St., Elmhurst, Ill. 60126.
(c) Specialty Brands, Inc., 345 Allerton Avenue, S. San Francisco, CA 94080.

1. Parent Corporation:

Werthan Industries, Inc., 1400 8th Avenue North, Nashville, Tennessee 37202.

2. Wholly owned subsidiaries which will participate in the operations:

(A) Auto Mart of Nashville, Tennessee, Inc., 614 4th Avenue South, Nashville, Tennessee 37204.
(B) Check Printers, Inc., 1500 Elm Hill Road, Nashville, Tennessee 37210.

1. Parent corporation and address of principal office:

Wickes Companies, Inc., 1010 Second Avenue, San Diego, California 92101.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Albion Corporation, 1601 Wanda Avenue, Ferndale, Michigan.
Aldens, Inc., 5000 West Roosevelt Road, Chicago, Illinois 60607.
Building Products Supply Company, Inc., P.O. Box 338, Wilsonville, Oregon 97070.

Gamble Department Stores, Inc., 5000 West Roosevelt Road, Chicago, Illinois 60607.
Howard Bros. Discount Stores, Inc. 3030 Aurora, Monroe, Louisiana 71201
Leath and Company, 7111 North Lincoln Avenue, Chicago, Illinois 60646.
Lee L. Woodard Sons, Inc., 317 Elm Street, Owosso, Michigan 48867.
MacGregor Golf Company, 5775–B Glenridge Drive N.E., Suite 550, Atlanta, Georgia 30328.
Red Owl Stores, Inc., 215 Excelsior Avenue East, Hopkins, Minnesota 55343.
Sequoia Supply, Inc., P.O. Box 338, Wilsonville, Oregon 97070.
Snyder Drug Stores, Inc., 215 Excelsior Avenue, Hopkins, Minnesota 55343.
Wickes DISC, Inc., 1010 Second Avenue, San Diego, CA 92101.
Wickes Europe, Inc., European Office, Sweelinkckplein I, 2517 GK The Hague, The Netherlands.
Wickes Leasing Corporation, 1010 Second Avenue, San Diego, CA 92101.
Woman's World Shops, Inc., 8000 Parkway Drive, La Mesa, CA 92041.
(a) Zayre Corp., 770 Cochituate Road, Framingham, MA 01701.
(b) Atlantic Zayre, Inc., 5300 Kennedy Road, Forest Park, GA 30050.
(c) Newton Buying Corp., d.b.a. T. J. Maxx; 770 Cochituate Road, Framingham, MA 01701.
(d) Commonwealth Trading Inc., d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.
(e) Miss Nova Inc., d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.
(f) H-O-M Corp., d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.
(g) Specialty Apparel Corp., d.b.a. Hit or Miss (or On Stage), 100 Campanelli Parkway, Stoughton, MA 02072.
(h) Avon Trading Corp., d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.
(i) NETCO Inc., 601 West 26th Street, New York, NY 10001.
(j) Clinton Trading Corp., 111 Adams Road, Clinton, MA 01510.
(k) New England Trading Corporation, 305 Forbes Boulevard, Mansfield, MA 02048.
(l) Chicago Trading Corp., 11535 South Central Avenue, Worth, IL 60482.
(m) Georgia Purchasing Inc., 5300 Kennedy Road, Forest Park, GA 30050.
(n) Zayre Fabrics Inc., 9A Strathmore Road, Natick, MA 01760.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-28977 Filed 9-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over-Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Accounting Report Filing Date Extension

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time.

SUMMARY: Time for filing accounting report on directed service operations by Kansas City Terminal Railway Company extended until October 20, 1980.

DATES: This decision shall be effective on September 16, 1980.

FOR FURTHER INFORMATION CONTACT: Richard J. Schiefelbein (202) 275–0826.

SUPPLEMENTARY INFORMATION:

Decision of the Commission

On September 26, 1979, we directed Kansas City Terminal Railway Company (KCT) to provide service over the system of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island or RI). *Kansas City Term. Ry. Co.—Operate—Chicago, R.I.&P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). Directed service operations by KCT over the RI system ended on March 23, 1980. Under 49 CFR 1126.3(d)(1), KCT must file a final accounting report with the Commission within 180 days after completion of directed service. The KCT report on RI operations would be due on September 19, 1980. A cut-off date for filing claims against KCT by other railroads has not been determined and issues regarding the settlement of claims between KCT and the RI Trustee have not yet been resolved. Therefore, we are extending the time for filing the KCT accounting report until October 20, 1980.

Two matters have arisen which make impractical the filing of an accounting report and the completion of accounting and other necessary wind-down functions by September 19. First, KCT has petitioned the Commission for instructions concerning the procedures to be followed in the wind-down of directed service accounting functions. We have been working to establish reasonable cut-off dates for accounting settlements of claims other railroads may have against KCT as directed operator of RI. Under normal railroad accounting rules, accounting settlements of claims could continue for up to 5 years. A cut-off date that would be fair to all involved railroads in this situation has not yet been determined.

KCT also has filed a petition seeking clarification of reconsideration of our decision served March 19, 1980, regarding the compensation agreement between KCT and the Rock Island Trustee relating to directed service operations. We have not yet issued a decision disposing of that petition. KCT will need time to review and implement our decision on the petition, when issued, in order to make accounting allocations between directed service and the Rock Island Trustee.

We believe that a 30-day extension of the wind-down period and the time for filing the directed service accounting report will be adequate to resolve the issues raised in KCT's petitions. Therefore, we will extend the wind-down period and filing date until October 20, 1980.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The requirement of 49 CFR 1126.3(d)(1) that a final accounting report on directed service operations be filed with the Commission within 180 days after consummation of the directed service is waived with respect to KCT's operations of Rock Island lines pursuant to Directed Service Order No. 1398 and supplemental orders thereto.

2. KCT shall file the accounting report required by 49 CFR 1126.3(d)(1) on or before October 20, 1980.

3. This decision will be effective on Sept. 16, 1980.

This action is taken under the authority of 49 U.S.C. § 10321 and 11125.

Decided: September 15, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-28978 Filed 9-18-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Application for Relief—Formerly Fourth Section Application

September 15, 1980.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43862, Southwestern Freight Bureau, Agent (No. B–89), increased rates and provisions on common salt, in carloads, between Southern and Southwestern stations, published in Supplement 307 to its Tariff ICC SWFB 2007–H, to become effective October 10, 1980. Grounds for relief—revised rate structure.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-28976 Filed 9-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 336]

Permanent Authority Decisions; Decision-Notice

Decided: September 12, 1980.

The following applications, filed on or after March 1, 1979, are governed by Sepecial Rules 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filing prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the tranportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 20, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before October 20, 1980, or the application shall stand denied.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 3468 (Sub-178F), filed March 31, 1980, initially published in the Federal Register on July 15, 1980. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 So. Dort Hwy., P.O. Box 308, Flint, MI 48501. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *automobiles, trucks, and chassis,* in secondary movements, in truckaway and driveaway service, (1) from Orange, CT, to points in DE, MD, MA, MI, NJ, NY, NC, OH, PA, VA, WV, and DC, and (2) from Providence, RI, to points in NC and VA.

Note.—This application is republished to show in part (2) destination points in VA in lieu of WV.

MC 121568 (Sub-40F), filed June 23, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same as applicant). Transporting (1) *automobile gear parts,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between Kenderson, KY, and Evansville, IN, on the one hand, and, on the other, Humboldt, TN. Condition: The person or persons who appear to be engaged in common control must either

file an application under 49 USC 11343, or submit an affidavit indicating why such approval is unnecessary.

Note.—Applicant intends to tack at Humboldt, TN, with existing regular-route authority.

MC 121568 (Sub-41F), filed June 23, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same as applicant). Transporting *clothing,* and *materials, equipment, and supplies* used in the manufacture and distribution of clothing, between Elizabethton, TN, and Amarillo, TX. Condition: 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 USC 11343, or submit an affidavit indicating why such approval is unnecessary.

Note.—Applicant intends to tack at Elizabethton, TN, with existing regular-route authority.

MC 121568 (Sub-42F), filed June 10, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same address as applicant). Transporting *paper and paper products, and materials, equipment, and supplies* used in the manufacture of paper and paper products, between the facilities used by International Paper Company at or near Bastrop, Mansfield, and Springhill, LA, on the one hand, and, on the other, points in TN. Condition: 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.

Note.—Applicant intends to tack in TN with existing regular-route authority.

MC 138609 (Sub-9F), filed April 4, 1980. Applicant: ROBERT L. ARNOLD d.b.a. PLANTATION TRANSPORT COMPANY, 1122 W. Oglethorpe Ave., P.O. Box 1171, Albany, GA 31702. Representative: Robert L. Arnold (same address as applicant). Transporting *precast and prestressed concrete products,* from Knoxville, TN, to points in AL, FL, GA, NC, and SC.

MC 142559 (Sub-153F), filed March 17, 1980, and published initially in the **Federal Register** on June 24, 1980. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. Transporting (1) *paper, paper products, wood products, and plastic and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), (a) between the facilities of Crown-Zellerbach in CA and OR, on the one hand, and, on the other, points in CA and OR, and those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, and (b) between the facilities of Crown-Zellerbach in that portion of the U.S. in and east of MN, IA, MO, KS, OK, and TX, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

Note.—This application is being republished to clarify the territorial authority and to remove a restriction.

MC 150238 (Sub-1F), filed June 16, 1980. Applicant: ARTHUR MOODY d.b.a. S.W.D. TRANSPORTATION, Main Street, P.O. Box 731, Southwest Harbor, ME 04679. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101. Contract carrier, transporting *commodities for recycling,* between points in the U.S., under a continuing contract(s) with E.M.R., Inc., of Southwest Harbor, ME.

MC 150479 (Sub-1F), filed July 1, 1980, initially published in the **Federal Register** on August 12, 1980. Applicant: SAFEWAY LINES AND TOUR COMPANY, 1922 East Gage Ave., Los Angeles, CA 90001. Representative: John Paul Fischer, 256 Montgomery St., 5th Floor, San Francisco, CA 94104. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, in round-trip and one-way operations, beginning and ending at points in Los Angeles County, CA, Clark County, NV, and Coconino, Mohave, Yavapai, Maricopa, Pinal, Yuma, Pima, and Santa Cruz Counties, AZ, and extending to points in the U.S. (including AK but excluding HI). This application is republished to show the inclusion of Alaska.

MC 150559 (Sub-1F), filed April 14, 1980, initially published in the **Federal Register** on July 29, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Avenue, Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting *ground clay,* in bags, and *charcoal, charcoal briquets, motor oil, antifreeze,* and *paper bags,* (1) from Rochester, NY to New York, NY, and points in CT, MA, MJ, OH, PA, and VA, and those in Suffolk and Nassau Counties, NY, (2) from Brookville, PA, to points in MJ and NY, (3) from Ellsinore, MO to points in FL, NJ, NY, OH, PA, and VA, (4) from Parsons, WV, to Rochester, NY, and points in Erie County, NY, (5) from McKees Rocks, and Oil City, PA, to Rochester, NY, (6) from Bayonne, NJ, to Rochester, NY, (7) from Louisville, KY, to Rochester, NY and Ellsinore, MO, and (8) from Attapulgus and Quality, GA, to Rochester and E. Bethany, NY, this application is republished to show the addition of Oil City, PA, as an origin point.

MC 151178F, filed June 30, 1980. Applicant: KENNETH DIXON d.b.a. DIXON FARM SUPPLY, 101 SW. "A" Street, Stigler, OK 74462. Representative: Louis E. Striegel, 6110 A S. 221 East Avenue, Broken Arrow, OK 74012. Transporting (1)(a) *agricultural machinery,* and *agricultural implements,* and (b) *parts* for the commodities in (1)(a), and (2) *materials, equipment, and supplies* used in the manufacture, distribution and maintenance of the commodities in (1), between points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NM, NE, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WA, and WI, under continuing contract(s) with Busby White, Inc., Tulsa Tractor Company, Inc., and Stewart Martin, Inc.

[FR Doc. 80-28974 Filed 9-18-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP2-043]

Permanent Authority Decisions; Decision-Notice

Decided: September 15, 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 FR 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 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 November 3, 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. On or before November 18, 1980 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.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

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."

MC 150133 (Sub-1F), filed September 8, 1980. Applicant: DDI TRANSPORT, INC., Suite 501, 651 East Butterfield Rd., Lombard, IL 60148. Representative: Eric Meierhoefer, Suite 423, 1511 K 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.

[FR Doc. 80-28972 Filed 9-18-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-044]

Permanent Authority Decisions; Decision-Notice

Decided: September 15, 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** 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 simplyifying 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 November 3, 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. On or before November 18, 1980 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.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carier 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".

MC 8973 (Sub-74F), filed September 4, 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) *building materials* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S.

MC 20722 (Sub-40F), filed September 8, 1980. Applicant: M & G CONVOY, INC., 590 Elk St., Buffalo, NY 14240. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield, MI 48013. Transporting (1) *motor vehicles,* in truckaway service, from Detroit, MI, to points in the U.S., and (2) *motor vehicles,* in secondary movements, in truckaway service, from Westmoreland County, PA, to points in the U.S.

MC 24583 (Sub-37F), filed September 3, 1980. Applicant: FRED STEWART COMPANY, a corporation, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting *bromine chloride,* in containers, between the facilities of Dow Chemical USA, in Columbia County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 58992 (Sub-4F), filed August 26, 1980. Applicant: ALEXANDER TRUCK LINE, INC., P.O. Box 751, Lyons, KS 67554. Representative: Leon White (address same as applicant). (I) *Regular routes,* transporting (1) *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (A) between Kansas City, MO and Ensign, KS; from Kansas City over Interstate Hwy 70 to junction U.S. Hwy 156, then over U.S. Hwy 156 to Ellsworth, KS, then over KS Hwy 14 to Lyons, KS, then over U.S. Hwy 56 to Ensign, KS, and return over the same route, serving all intermediate points, and serving Stafford, Inman, Saint John, Sterling, Hutchinson, La Crosse, and Wichita, KS and all other points in Ford County, KS as off-route points, and (b) between Kansas City, MO and Lyons, KS: from Kansas City over Interstate Hwy 35 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction KS Hwy 150, then over KS Hwy 150 to junction U.S. Hwy

56, then over U.S. Hwy 56 to Lyons, and return over the same route, serving all intermediate points and serving Barton, Rice and Reno Counties as off-route points, and (c) between the junction of U.S. Hwy 56 and KS Hwy 61 and the junction of U.S. Hwy 61 and the county line between Reno and Pratt Counties, KS at or near Turon, KS, over KS Hwy 61, serving all intermediate points and serving Barton and Rice Counties, and all other points in Reno County as off-route points. (II) *Irregular routes*, transporting (1) *feed, building materials, windmills, iron and steel articles, seed*, and (2) *machinery and supplies* as described in Item 35 of the Standard Transportation Commodity Code Tariff, *pulp, paper or allied products* as described in Item 26 of the Standard Transportation Commodity Code Tariff, and *petroleum or coal products* as described in Item 29 of the Standard Code Tariff, between Kansas City, KS, on the one hand, and, on the other, points in Lincoln, Saline, Russell, Barton, Ellsworth, Mcpherson, Reno and Harvey Counties, KS. Note: The purpose of this application is to modify that portion of applicant's existing authority under MC-58992, issued September 6, 1967, which authorizes (A) the transportation of *Agricultural implements and farm machinery* over described *regular routes*, from Kansas City, MO, to Dodge City, KS, serving the intermediate and off-route points of North Kansas City, MO, and Larned, Ellinwood, Stafford, Lyons, Inman, Great Neck, Sterling, Hutchinson, Salina, Ellsworth, Abilene, St. John, La Crosse, and Wichita, KS, and *general commodities* (except those of unusual value, classes A and B explosives), groceries, packing house products, household goods as defined by the Commission and those injurious or contaminating to other lading, over described *regular routes*, from Kansas City, MO, to Great Bend, KS, serving the intermediate and off-route points of North Kansas City, MO, and Lyons, Hoisington and Ellinwood, KS; and (B) *machinery building materials, windmills, iron and steel articles, seeds, feed, paper cartons, and oil in containers*, over *irregular routes*, from Kansas City, KS, and Kansas City and North Kansas City, MO, to Geneseo, KS, and points within 40 miles of Geneseo. Condition: Any certificate issued in this proceeding will cancel all of certificate No. MC-58992, except that portion of sheet No. 2 authorizing the transportation of "livestock".

MC 61592 (Sub-498F), filed September 8, 1980. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Elisabeth A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting (1) *paper, paper products, and printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Bettendorf, IA and Lancaster, PA, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities used by Star Forms, Inc.

MC 128343 (Sub-58F), filed September 8, 1980. Applicant: C-LINE, INC., Tourtellot Hill Rd., Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M St., NW., 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 Ballou-Johnson & Nichols Company, of Cranston, RI.

MC 128543 (Sub-27F), filed September 8, 1980. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. 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 Tubular Steel, Inc., of Hazelwood, MO.

MC 142082 (Sub-11F), filed September 8, 1980. Applicant: OLIVER BROWN TRUCKING CO., INC., 700 South Ave., Middlesex, NJ 08846. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Tenneco Chemicals, Inc., of Piscataway, NJ.

MC 151352 (Sub-4F), filed September 8, 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 *charcoal, gas grills, and accessories* for gas grills, from the facilities used by W.C. Bradley Enterprises, Inc., at Columbus, GA, to points in the U.S.

[FR Doc. 80-28973 Filed 9-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-87]

Certain Coin-Operated Audio-Visual Games and Components Thereof; Notice to All Parties

Notice is hereby given that the hearing in this case will be reopened on September 19, 1980 at 9:00 a.m. in the Dodge Center, Room 201, 1010 Wisconsin Avenue, NW, Washington, D.C.

The Secretary shall publish this notice in the **Federal Register.**

Issued: September 15, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-28970 Filed 9-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-81]

Certain Hollow Fiber Artificial Kidneys; Notice to All Parties

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on September 23, 1980, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C. The purpose of this prehearing conference is to review the trial memoranda submitted by the parties, to stipulate into the record as many exhibits as possible, and to discuss any questions raised by the parties relating to the hearing.

Notice is also given that the hearing in this proceeding will commence at 9:00 a.m. on September 29, 1980, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C.

The Secretary shall publish this notice in the **Federal Register.**

Issued: September 15, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-28971 Filed 9-18-80; 8:45 am]

BILLING CODE 7020-02-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 NW., Washington, D.C. 20013.

Signed at Washington, D.C. this 16th day of September 1980.

Joseph T. Paslawski,
Acting Director, Office of Program Services.

Applications Received During the Week Ending September 20, 1980

Name of applicant and location of enterprise	Principal product or activity
Lakewood Plantation Co., Inc., Nesmith, S.C.	Manufacture, processing, and distribution of meat and integrated food products.
Agrionics-Seneca Biomass Refinery, Seneca County, N.Y.	Distillery—anhydrous fuel-grade ethanol.
Imperial Spinning Mills, Inc., Wallace, N.C.	Manufacture of acrylic yarn.
Sandpiper Convalescent Center, Inc., Mt. Pleasant, S.C.	Long-term nursing care.
Kentucky Agricultural Energy Co.; Franklin, Ky.	Production of anhydrous ethanol.

[FR Doc. 80-28999 Filed 9-18-80; 8:45 am]
BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce a determination by the Department to add 38 areas to the list of labor surplus areas effective August 1, 1980.

FOR FURTHER INFORMATION: Contact James W. Higgins, Assistant Chief, Division of Labor Market Information, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213 (202-376-6265).

SUPPLEMENTARY INFORMATION: The areas described below have been classified by the Assistant Secretary for Employment and Traning as labor surplus areas for purposes of Executive Orders 12073 and 10582 pursuant to 20 CFR Part 654. The areas were so classified on the basis of the exceptional circumstances criteria set forth in 20 CFR 654.5(c) and added to the "Listing of Eligible Labor Surplus Areas" for June 1, 1980, through May 31, 1981, effective August 1, 1980.

Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under this Order for classifying and designating areas which are labor surplus areas. Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment, as defined by the Secretary of Labor. Areas of substantial unemployment are defined by Department of Labor regulations as labor surplus areas at 20 CFR 654.13.

The Department's labor surplus area classification procedures are set forth at 20 CFR Part 654, Subpart A. The regulations require that the Assistant Secretary for Employment and Training classify labor surplus areas and publish the labor surplus areas together with corresponding geographic descriptions. Accordingly, the following additions to the list of labor surplus areas are published for the use of all Federal departments and agencies in directing procurement activity.

Additions to List of Eligible Labor Surplus Areas Under Defense Manpower Policy No. 4B and Executive Orders 12073 and 10582

June 1, 1980 through May 31, 1981

Labor Surplus Area and Geographic Description

California:
  Los Angeles County—Los Angeles County
Connecticut:
  New Haven City—New Haven City
Illinois:
  Joliet City—Joliet City in Will County
  Vermilion County—Vermilion County
  Balance of Will County—Will County less Joliet City
Indiana:
  Bartholomew County—Bartholomew County
  Noble County—Noble County
  Randolph County—Randolph County
Michigan:
  Allegan County—Allegan County
  Barry County—Barry County
  Branch County—Branch County
  Calhoun County—Calhoun County
  Cass County—Cass County
  Clinton County—Clinton County
  Clinton Township—Clinton Township in Macomb County

Dearborn City—Dearborn City in Wayne County
Dearborn Heights City—Dearborn Heights City in Wayne County
Grand Rapids City—Grand Rapids City in Kent County
Grand Traverse County—Grand Traverse County
Hillsdale County—Hillsdale County
Isabella County—Isabella County
Jackson County—Jackson County
Kalamazoo City—Kalamazoo City in Kalamazoo County
Lansing City—Lansing City in Clinton, Eaton and Ingham Counties
Lapeer County—Lapeer County
Livingston County—Livingston County
Mecosta County—Mecosta County
Midland County—Midland County
Balance of Oakland County—Oakland County less Farmington Hills City, Pontiac City, Royal Oak City, Southfield City, Troy City, Waterford Township
Otsego County—Otsego County
Redford Township—Redford Township in Wayne County
St. Clair Shores City—St. Clair Shores City in Macomb County
Sterling Heights City—Sterling Heights City in Macomb County
Van Buren County—Van Buren County
Warren City—Warren City in Macomb County
Balance of Wayne County—Wayne County less Dearborn City, Dearborn Heights City, Detroit City, Lincoln Park City, Livonia City, Redford Township, Taylor City, Westland City
Westland City—Westland City in Wayne County
New York:
Cattaraugus County—Cattaraugus County

Signed at Washington, D.C., the 16th day of September, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-29074 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-108-C]

Faith Coal Sales, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Faith Coal Sales, Inc., P.O. Box 69, Regina, KY 41559 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 5 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of cabs and canopies on the mine's loading machines and roof bolter.

2. Petitioner states that installation and use of cabs and canopies in the mine would result in a diminution of safety because:

a. Dips in the coal bed cause the equipment to strike the roof, destroying roof support; and

b. The size of the operator's compartment on the equipment is reduced which limits the visibility of the equipment operator.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 20, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Viginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-29072 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-115-C]

C. J. Langenfelder and Son, Inc.; Petition for Modification of Application of Mandatory Safety Standard

C. J. Langenfelder and Son, Inc., 8427 Pulaski Highway, P.O. Box 9606, Baltimore, Maryland 21237 has filed a petition to modify the application of 30 CFR 77.1109 (quantity and location of fire-fighting equipment) for use on its mobile equipment at the United States Steel Corporation's Robena Plant located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mobile equipment be equipped with portable fire extinguishers.

2. The petitioner is performing only surface work at the mine site and is not involved in any work within the mine.

3. Previous experience indicates that when mobile equipment carriers fire extinguishers, these extinguishers often become damaged, destroyed and unusable.

4. The terrain at the mine site consists of various types of objects which cause the fire extinguishers on the mobile equipment to become damaged, destroyed and unusable.

5. As an alternative method, petitioner states that fire extinguishers will be readily available within the working areas where the equipment is under the control of the immediate supervisor.

6. For the reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 20, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Viginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-29073 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-95-M]

Occidental Oil Shale, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Occidental Oil Shale, Inc., P.O. Box 2687, Grand Junction, Colorado 81502 has filed a petition to modify the application of 30 CFR 57.21-78 (permissible equipment) to its CB Tract Shale Oil Vent located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The standard states that only permissible equipment maintained in permissible condition shall be used in places where dangerous quantities of flammable gases are present or may enter the air current.

2. The oil shale mine's ventilation and escape shafts were classified gassy by MSHA on January 2, 1980. Petitioner states that its production and service shafts, separate and unconnected to the ventilation and escape shaft, are not gassy.

3. Petitioner seeks a modification to permit the use of nonpermissible equipment in the production and service shafts of its mine.

4. Petitioner believes that permissibility of equipment alone leads only to a false sense of security when entering an active area with possible ignition sources.

5. Petitioner's alternative method consists of maintaining a positive ventilation system and daily methane monitoring.

6. Petitioner states the above alternative method will achieve the

results which application of said standard would achieve and will at all times guarantee to miners no less than the same measure of protection as that afforded by said standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 20, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-29071 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Borg-Warner Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investgations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 29, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 29, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Signed at Washington, D.C. this 15th day of September 1980.

Dominic Sorrentino,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Borg-Warner Corp. (workers)	Washington, MO	8-27-80	8-21-80	TA-W-10,688	Carburetor kits.
Cape May Products (workers)	Cape May Court House, NJ	8-22-80	8-18-80	TA-W-10,689	Communication equipment and tape.
Dayton Malleable Inc., Ohio Division (union)	Columbus, OH	9-5-80	9-2-80	TA-W-10,690	Malleable iron casting.
Doris Manufacturing Co. (union)	Hagerstown, MD	9-4-80	8-19-80	TA-W-10,691	Dresses, skirts, blouses, and slacks.
Firestone Steel Products (workers)	Spartanburg, SC	9-4-80	8-25-80	TA-W-10,692	Automotive trim, stainless steel, and syrup containers.
J. S. Zulick and Co. (workers)	Orwigsburg, PA	9-8-80	9-2-80	TA-W-10,693	Children shoes.
Murbeck Knitted Fabrics Co. (union)	Bridgeton, NJ	8-26-80	8-20-80	TA-W-10,694	Knitted fabrics.
Rax Inc. (workers)	Waterford, MI	9-4-80	8-19-80	TA-W-10,695	Loading R.R. cars for transport.
U.S. Steel, Vandergrift Plant (union)	Pittsburgh, PA	8-25-80	8-21-80	TA-W-10,696	Electrical sheet.
Bethlehem Steel Co. (union)	Bethlehem, PA	8-27-80	8-21-80	TA-W-10,697	Coke.
Chuck Ellis-Pontiac, Buick-GMC-Inc. (workers).	Batavia, NY	8-28-80	8-25-80	TA-W-10,698	Dealership, used cars and parts.
First Ford (workers)	Des Plaines, IL	9-2-80	8-19-80	TA-W-10,699	Sell and repair Ford products.
Ford Motor Co., Atlanta Marketing Institute (company).	Hapeville, GA	9-8-80	9-3-80	TA-W-10,700	Support service.
Fownes Bros. and Co., Inc. (workers)	New York, NY	8-29-80	8-18-80	TA-W-10,701	Warehouse—some leather and fabric cutting.
Mode O'Day #9 (workers)	Hastings, NE	9-3-80	8-18-80	TA-W-10,702	Ladies sportswear.
Motorola Inc.—Auto Division (workers)	Arcade, NY	8-25-80	8-22-80	TA-W-10,703	Automotive ignition systems.
Triad Engineering Inc. (workers)	Berkley, MI	9-5-80	8-29-80	TA-W-10,704	Electronic sub-assemblies for emission and engine controls for Ford Motor.
Weinman Pump (union)	Columbus, OH	9-8-80	9-2-80	TA-W-10,705	Iron castings for centrifugal pumps.
E. I. du Pont de Nemours & Co. (NPEU Local 18).	Newark, NJ	9-3-80	8-26-80	TA-W-10,706	Color pigments.
Keller Aluminum Furniture of Georgia (AFL-CIO).	Waynesboro, GA	9-5-80	9-2-80	TA-W-10,707	Make chairs.
Keller Aluminum Tubing of East Georgia (AFL-CIO).	Waynesboro, GA	9-5-80	9-2-80	TA-W-10,708	Aluminum tubing.
Keller Bath Enclosures (AFL-CIO)	Swainsboro, GA	9-5-80	9-2-80	TA-W-10,709	Chair parts.
Keller Perfection Aluminum Parts (AFL-CIO)	Swainsboro, GA	9-5-80	9-2-80	TA-W-10,710	Chair parts.
Keller Stamping Inc. (AFL-CIO)	Swainsboro, GA	9-5-80	9-2-80	TA-W-10,711	Chair parts.
Monarch Textile Co. (UAW)	New York, NY	7-28-80	7-24-80	TA-W-10,712	Mfg. polyester.
Pittsburgh Wire Form & Manufacturing Co. (USA).	Pittsburgh, PA	9-8-80	9-2-80	TA-W-10,713	Leaf springs and wire forms.
Vulcan Rivet & Bolt Corp	Birmingham, AL	9-5-80	9-2-80	TA-W-10,714	Industrial fasteners.
Acme Chain Division of Incom International (USWA).	Holyoke, MA	9-8-80	9-4-80	TA-W-10,715	Chain.
Arrow Clothes (ACTWY)	New York, NY	9-2-80	8-28-80	TA-W-10,716	Men's clothing.
Bridgeport Brass (USWA)	Bridgeport, CT	9-8-80	9-4-80	TA-W-10,717	Wire, sheet, and rod casting.
Jim Walter Resources (USWA)	Birmingham, AL	9-8-80	9-5-80	TA-W-10,718	Coke, chemical, pig iron, and mineral wool.
Litton UHS (company)	Lathrup Village, MI	7-16-80	7-14-80	TA-W-10,719	Conveyers, automatic storing parts of autos.
Nagle Industries Assembly Division (UAW)	Roscommon, MI	9-5-80	8-29-80	TA-W-10,720	Power seat cables, glove box and brake release cables.
National Strapping Corp. (USWA)	Youngstown, OH	9-8-80	9-3-80	TA-W-10,721	Strapping for binding.
PR. Parts & Systems Inc. (company)	Trenton, MI	7-16-80	7-14-80	TA-W-10,722	Conveyers, automatic storing parts of autos.
Prestige Shoe Co. (workers)	Wilkes-Barre, PA	9-8-80	8-29-80	TA-W-10,723	Women's shoes.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bright Star Ind. (IAM&AW)	Clifton, NJ	8-29-80	8-20-80	TA-W-10,724	Flashlights and dry cell batteries.
Columbian Chemicals Co. (workers)	Cranbury, NJ	8-29-80	8-7-80	TA-W-10,725	Carbon black.
Lamsons and Sessions Co. Birmingham Plant (USWA).	Birmingham, AL	9-8-80	9-2-80	TA-W-10,726	Fasteners, nut screws.
La Salle Steel Co. Inc. (USWA)	Griffith, IN	9-8-80	9-5-80	TA-W-10,727	Chrome steel, plates and bars.
N.W. Steel Rolling Mills Inc. (USWA)	Seattle, WA	9-4-80	8-26-80	TA-W-10,728	Manufacture steel.
N. W. Steel Rolling Mills Inc. (USWA)	Kent, WA	9-4-80	8-26-80	TA-W-10,729	Manufacture steel.
Prestolite Electronics Division of Eltra Corp. (company).	Elberton, GA	9-8-80	9-4-80	TA-W-10,730	Manufacture auto and industrial spark plugs.
Roane Electric Furnance Division of Roane, Limited (USWA).	Rockwook, TN	9-5-80	8-21-80	TA-W-10,731	Ferro alloys.
Thompson Steel Co. Inc. (USWA)	Baltimore, MD	9-8-80	9-5-80	TA-W-10,732	Cold rolled strip steel.
General Motors Corp., GM Proving Grounds (company).	Mesa, AR	6-10-80	6-3-80	TA-W-10,733	Support facilities.
General Motors Corp., Central Office (company).	Tempe, AR	6-10-80	6-3-80	TA-W-10,734	Support facilities.
General Motors Corp., Central Office (company).	Los Angeles, CA	6-10-80	6-3-80	TA-W-10,735	Support facilities.
General Motors Corp., Central Office (company).	Oakland, CA	6-10-80	6-3-80	TA-W-10,736	Support facilities.
General Motors Corp., Central Office (company).	Sacramento, CA	6-10-80	6-3-80	TA-W-10,737	Support facilities.
General Motors Corp., Central Office (company).	San Francisco, CA	6-10-80	6-3-80	TA-W-10,738	Support facilities.
General Motors Corp., Central Office (company).	Santa Barbara, CA	6-10-80	6-3-80	TA-W-10,739	Support facilities.
General Motors Corp., Central Office (company).	Fremont, CA	6-10-80	6-3-80	TA-W-10,740	Support facilities.
General Motors Corp., Central Office (company).	Van Nuys, CA	6-10-80	6-3-80	TA-W-10,741	Support facilities.
General Motors Corp., Central Office (company).	San Leandro, CA	6-10-80	6-3-80	TA-W-10,742	Support facilities.
General Motors Corp., Central Office (company).	Denver, CO	6-10-80	6-3-80	TA-W-10,743	Support facilities.
General Motors Corp., Central Office (company).	Washington, D.C.	6-10-80	6-3-80	TA-W-10,744	Support facilities.
General Motors Corp., Central Office (company).	Jacksonville, FL	6-10-80	6-3-80	TA-W-10,745	Support facilities.
General Motors Corp., Central Office (company).	Miami, FL	6-10-80	6-3-80	TA-W-10,746	Support facilities.
General Motors Corp., Central Office (company).	Atlanta, GA	6-10-80	6-3-80	TA-W-10,747	Support facilities.
General Motors Corp., Central Office (company).	Chicago, IL	6-10-80	6-3-80	TA-W-10,748	Support facilities.
General Motors Corp., Central Office (company).	Anderson, IN	6-10-80	6-3-80	TA-W-10,749	Support facilities.
General Motors Corp., Central Office (company).	Indianapolis, IN	6-10-80	6-3-80	TA-W-10,750	Support facilities.
General Motors Corp., Central Office (company).	Kansas City, KS	6-10-80	6-3-80	TA-W-10,751	Support facilities.
General Motors Corp., Central Office (company).	Shawnee, LS	6-10-80	6-3-80	TA-W-10,752	Support facilities.
General Motors Corp., Central Office (company).	New Orleans, LA	6-10-80	6-3-80	TA-W-10,753	Support facilities.
General Motors Corp., Central Office (company).	Shreveport, LA	6-10-80	6-3-80	TA-W-10,754	Support facilities.
General Motors Corp., Central Office (company).	Boston, MA	6-10-80	6-3-80	TA-W-10,755	Support facilities.
General Motors Corp., Central Office (company).	Dedham, MA	6-10-80	6-3-80	TA-W-10,756	Support facilities.
General Motors Corp., Central Office (company).	Flint, MI	6-10-80	6-3-80	TA-W-10,757	Support facilities.
General Motors Corp., Central Office (company).	Lansing, MI	6-10-80	6-3-80	TA-W-10,758	Support facilities.
General Motors Corp., Central Office (company).	Pontiac, MI	6-10-80	6-3-80	TA-W-10,759	Support facilities.
General Motors Corp., Central Office (company).	Saginaw, MI	6/10/80	6/3/80	TA-W-10,760	Support facilities.
General Motors Corp., GM Proving Grounds (company).	Milford, MI	6/10/80	6/3/80	TA-W-10,761	Support facilities.
General Motors Corp., Central Office (company).	Southfield, MI	6/10/80	6/3/80	TA-W-10,762	Support facilities.
General Motors Corp., Central Office (company).	Livonia, MI	6/10/80	6/3/80	TA-W-10,763	Support facilities.
General Motors Corp., Central Office (company).	Minn. MN	6/10/80	6/3/80	TA-W-10,764	Support facilities.
General Motors Corp., Central Office (company).	Kansas City, MO	6/10/80	6/3/80	TA-W-10,765	Support facilities.
General Motors Corp., Central Office (company).	St. Louis, MO	6/10/80	6/3/80	TA-W-10,766	Support facilities.
General Motors Corp., Central Office (company).	Omaha, NE	6/10/80	6/3/80	TA-W-10,767	Support facilities.
General Motors Corp., Central Office (company).	Newark, NJ	6/10/80	6/3/80	TA-W-10,678	Support facilities.
General Motors Corp., Central Office (company).	Trenton, NJ	6/10/80	6/3/80	TA-W-10,769	Support facilities.
General Motors Corp., Central Office (company).	East Orange, NJ	6/10/80	6/3/80	TA-W-10,770	Support facilities.
General Motors Corp., Central Office (company).	Union, NJ	6/10/80	6/3/80	TA-W-10,771	Support facilities.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Central Office (company).	Moorestown, NJ	6/10/80	6/3/80	TA-W-10,772	Support facilities.
General Motors Corp., Central Office (company).	Albany, NY	6/10/80	6/3/80	TA-W-10,773	Support facilities.
General Motors Corp., Central Office (company).	Buffalo, NY	6/10/80	6/3/80	TA-W-10,774	Support facilities.
General Motors Corp., Central Office (company).	Tarrytown, NY	6/10/80	6/3/80	TA-W-10,775	Support facilities.
General Motors Corp., Central Office (company).	Clarence, NY	6/10/80	6/3/80	TA-W-10,776	Support facilities.
General Motors Corp., Central Office (company).	Charlotte, NC	6/10/80	6/3/80	TA-W-10,777	Support facilities.
General Motors Corp., Central Office (company).	Cincinnati OH	6/10/80	6/3/80	TA-W-10,778	Support facilities.
General Motors Corp., Central Office (company).	Cleveland, OH	6/10/80	6/3/80	TA-W-10,779	Support facilities.
General Motors Corp., Central Office (company).	Columbus, OH	6/10/80	6/3/80	TA-W-10,780	Support facilities.
General Motors Corp., Central Office (company).	Dayton, OH	6/10/80	6/3/80	TA-W-10,781	Support facilities.
General Motors Corp., Central Office (company).	Hudson, OH	6/10/80	6/3/80	TA-W-10,782	Support facilities.
General Motors Corp., Central Office (company).	Lordstown, OH	6/10/80	6/3/80	TA-W-10,783	Support facilities.
General Motors Corp., Central Office (company).	Rocky River, OH	6/10/80	6/3/80	TA-W-10,784	Support facilities.
General Motors Corp., Central Office (company).	Oklahoma City, OK	6/10/80	6/3/80	TA-W-10,785	Support facilities.
General Motors Corp., Central Office (company).	Portland, OR	6/10/80	6/3/80	TA-W-10,786	Support facilities.
General Motors Corp., Central Office (company).	Philadelphia PA	6/10/80	6/3/80	TA-W-10,787	Support facilities.
General Motors Corp., Central Office (company).	Pittsburgh, PA	6/10/80	6/3/80	TA-W-10,788	Support facilities.
General Motors Corp., Central Office (company).	Boyers, PA	6/10/80	6/3/80	TA-W-10,789	Support facilities.
General Motors Corp., Central Office (company).	Memphis, TN	6/10/80	6/3/80	TA-W-10,790	Support facilities.
General Motors Corp., Central Office (company).	Dallas, TX	6/10/80	6/3/80	TA-W-10,791	Support facilities.
General Motors Corp., Central Office (company).	El Paso, TX	6/10/80	6/3/80	TA-W-10,792	Support facilities.
General Motors Corp., Central Office (company).	Houston, TX	6/10/80	6/3/80	TA-W-10,793	Support facilities.
General Motors Corp., Central Office (company).	Arlington, TX	6/10/80	6/3/80	TA-W-10,794	Support facilities.
General Motors Corp., Central Office (company).	Salt Lake City, UT	6/10/80	6/3/80	TA-W-10,795	Support facilities.
General Motors Corp., Central Office (company).	Richmond, VA	6/10/80	6/3/80	TA-W-10,796	Support facilities.
General Motors Corp., Central Office (company).	Fairfax, VA	6/10/80	6/3/80	TA-W-10,797	Support facilities.
General Motors Corp., Central Office (company).	Arlington, VA	6/10/80	6/3/80	TA-W-10,798	Support facilities.
General Motors Corp., Central Office (company).	Milwaukee, Wisc.	6/10/80	6/3/80	TA-W/10,799	Support facilities.
General Motors Corp., Chevrolet Motor Division, Engineering Center, (company).	Warren, MI	6/10/80	6/3/80	TA-W/10,800	Support facilities.
General Motors Corp., Chevrolet Motor Division, Central Office (company).	Detroit, MI	6/10/80	6/3/80	TA-W/10,801	Support facilities.
General Motors Corp., Chevrolet Motor Division, Regional Sales Office (company).	Detroit, MI	6/10/80	6/3/80	TA-W/10,802	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Atlanta, GA	6/10/80	6/3/80	TA-W/10,803	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office, (company).	Tarrytown, NY	6/10/80	6/3/80	TA-W/10,804	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Sharonville, OH	6/10/80	6/3/80	TA-W/10,805	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Irving, TX	6/10/80	6/3/80	TA-W/10,806	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Fremont, CA	6/10/80	6/3/80	TA-W/10,807	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Oakbrook IL	6/10/80	6/3/80	TA-W/10,808	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone and Regional Office (company).	Rockville, MD	6/10/80	6/3/80	TA-W/10,809	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Homewood, AL	6/10/80	6/3/80	TA-W/10,810	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Tempe, AR	6/10/80	6/3/80	TA-W/10,811	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Santa Monica, CA	6/10/80	6/3/80	TA-W/10,812	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	San Diego, CA	6/10/80	6/3/80	TA-W/10,813	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Denver, CO	6/10/80	6/3/80	TA-W/10,814	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Jacksonville, FL	6/10/80	6/3/80	TA-W/10,815	Support facilities.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Miami, FL	6/10/80	6/3/80	TA-W/10,816	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Peoria, IL	6/10/80	6/3/80	TA-W/10,817	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Indianapolis, IN	6/10/80	6/3/80	TA-W/10,818	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Des Moines, IA	6/10/80	6/3/80	TA-W/10,819	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Overland Park, KS	6/10/80	6/3/80	TA-W/10,820	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Lenexa, KS	6/10/80	6/3/80	TA-W/10,821	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Louisville, KY	6/10/80	6/3/80	TA-W/10,822	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Metairie, KY	6/10/80	6/3/80	TA-W/10,823	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Westwood, MA	6/10/80	6/3/80	TA-W/10,824	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Southfield, MI	6/10/80	6/3/80	TA-W/10,825	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Grand Blanc, MI	6/10/80	6/3/80	TA-W/10,826	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Edina, MN	6/10/80	6/3/80	TA-W/10,827	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Maryland Heights, MO	6/10/80	6/3/80	TA-W/10,828	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (company).	Omaha NE	6/10/80	6/3/80	TA-W/10,829	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Parsippany, NJ	6-10-80	6-3-80	TA-W-10,830	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Bethpage, Long Island, NY	6-10-80	6-3-80	TA-W-10,831	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Syracuse, NY	6-10-80	6-3-80	TA-W-10,832	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Cheektowage, NY	6-10-80	6-3-80	TA-W-10,833	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Charlotte, NC	6-10-80	6-3-80	TA-W-10,834	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Fargo, ND	6-10-80	6-3-80	TA-W-10,835	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Parma, OH	7-10-80	6-3-80	TA-W-10,836	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Oklahoma City, OK	6-10-80	6-3-80	TA-W-10,837	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Beaverton, OR	6-10-80	6-3-80	TA-W-10,838	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Carnegie, PA	6-10-80	6-3-80	TA-W-10,839	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Wormelysburg, PA	6-10-80	6-3-80	TA-W-10,840	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	King of Prussia, PA	6-10-80	6-3-80	TA-W-10,841	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Memphis, TN	6-10-80	6-3-80	TA-W-10,842	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Houston, TX	6-10-80	6-3-80	TA-W-10,843	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Salt Lake City, UT	6-10-80	6-3-80	TA-W-10,844	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Sandston, VA	6-10-80	6-3-80	TA-W-10,845	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Bellevue, WA	6-10-80	6-3-80	TA-W-10,846	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Charleston, WV	6-10-80	6-3-80	TA-W-10,847	Support facilities.
General Motors Corp., Chevrolet Motor Division, Zone Sales Office (Company).	Brookfield, WI	6-10-80	6-3-80	TA-W-10,848	Support facilities.
General Motors Corp., Chevrolet Motor Division, Divisional Office's (Company).	Saginaw, WA	6-10-80	6-3-80	TA-W-10,849	Support facilities.
Andrew Pallack (ACTWU)	New York, NY	9-2-80	8-28-80	TA-W-10,850	Ladies Jackets.
Falcon Products Inc. (Workers)	Olivette, MO	9-8-80	8-29-80	TA-W-10,851	Cast iron table bases.
Lady Dunn Division (Workers)	Charleston, WV	9-2-80	8-20-80	TA-W-10,852	Mined coal.
Michigan Metal Processing Corp.	Detroit, MI	9-8-80	7-9-80	TA-W-10,853	Steel coils and plates.
Oak Brass Company	Orange, NJ	9-8-80	8-29-80	TA-W-10,854	Electrical mining equipment
Rockwell International	Pittsburgh, PA	9-8-80	8-20-80	TA-W-10,855	Trailer axles, housings.
Union Carbide Coal Operations	Clendenin, W. Va	9-5-80	8-29-80	TA-W-10,856	Steam coal.
Western Cold Drawn Steel	Hartford, CT	9-8-80	9-4-80	TA-W-10,857	Cold finished steel bars.
Wisconsin Fittings Corp.	Two Rivers, WI	9-8-80	9-2-80	TA-W-10,858	Fabricators of tube and hose fittings.
American Bilt Rite (Workers)	Hohenwald, TN	9-9-80	9-5-80	TA-W-10,859	Fire hose, hydraulics, steam hose.
Anderson Container Facility of Container Corp. of America (UPIU).	Chicago, Il	9-8-80	9-4-80	TA-W-10,860	Corrugated shipping containers.
Bethleham Steel Corp. (USWA)	Bethlehem, PA	9-8-80	9-3-80	TA-W-10,861	Steel industrial fasteners, nuts and bolts.
Dana Corporataion, Weatherhead Divsion (UAW).	Toledo, OH	9-8-80	8-29-80	TA-W-10,862	Hydraulic steel fittings.
Ely & Walker of Paragould (Workers)	Paragould, TN	9-8-80	8-26-80	TA-W-10,863	Men's & boys' sport shirts, ladies' dresses.
Fashion Center Dress Co., Division of Star Fashions (Workers).	Fall River, MA	9-8-80	9-3-80	TA-W-10,864	Women's apparel.
Interlake Inc., Beverly Ohio Plant (USWA)	Oak Brook, IL	9-8-80	9-3-80	TA-W-10,865	Ferrochrome.
Muncy Corporation (Workers)	Enon, OH	9-9-80	9-5-80	TA-W-10,866	Window regulator, window channels and other stamped parts.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Pine Tool Co., Inc. (Workers)	Standish, MI	9-8-80	9-2-80	TA-W-10,867	Special machines, tooling, dies.
Aston Precision Products (ACTWU)	Aston, PA	9-9-80	9-4-80	TA-W-10,868	Spinneretts used in spinning rayon, polyester.
Birmingham Stove & Range Co. (USA)	Birmingham, AL	9-5-80	9-2-80	TA-W-10,869	Stove and skillets.
Hilf Bag Co. (workers)	New York, NY	9-9-80	9-3-80	TA-W-10,870	Manufactured ladies handbags.
Merit Plastics (UAW)	Canton, OH	7-15-80	6-22-80	TA-W-10,871	Plastics.
Morco Inc. (UAW)	Bedford Hts., OH	9-9-80	8-28-80	TA-W-10,872	Aluminum auto and truck wheels, crank shaft.
National Grinding Wheel Division Federal Mogul Corp. (USWA).	No. Tonawanda, NY	9-8-80	9-2-80	TA-W-10,873	Bonded abrasive products.
Quinlan Lumber Co. (workers)	Flint, MI	9-9-80	8-5-80	TA-W-10,874	Buick shop pallets transmission boxes, etc.
Sautter Manufacturing stampings and assemblies (workers).	Sterling Hts., MI	9-8-80	8-28-80	TA-W-10,875	Fuel tank parts, seat latches for auto industry.
Taffy Apple Inc. (workers)	Hialeah, FL	9-8-80	9-2-80	TA-W-10,876	Manufacture women's clothes.
Phoenix Machine & Tool Co., Inc. (workers)	Warren, MI	9-8-80	9-3-80	TA-W-10,877	Disc brake, tank barrens, rotarys, pistons and bushings.
Shuert Ind. Inc. (workers)	Troy, MI	9-8-80	8-13-80	TA-W-10,878	Dunnage tray molds for auto industry.
Bethlehem Steel Corp. (USWA)	Bethlehem, PA	9-8-80	8-29-80	TA-W-10,879	Iron fdry produces ingots and misc. castings.
Compo Industries, Inc. (company)	Waltham, MA	9-10-80	9-9-80	TA-W-10,880	Adhesives for shoe industry.
E & R Welding & Press Repair Inc. (company).	Lake Orion, MI	9-8-80	8-29-80	TA-W-10,881	Service machinery for the automobile stamping industry.
Eaton Corp. (workers)	Cleveland, OH	8-26-80	8-16-80	TA-W-10,882	Component parts for rear truck axles.
General Seal Corp. (workers)	Roseville, MI	9-9-80	9-3-80	TA-W-10,883	Mechanical seals for compressors for air conditioners.
Miller Meteor (UAW)	Piqua, OH	9-11-80	9-10-80	TA-W-10,884	Ambulances.
Quadee Rubber Co. (IAMAW)	Watertown, SD	9-8-80	8-1-80	TA-W-10,885	Rubber part fabrication.
Rockwell International Corp. (AIW)	Wellington, OH	9-9-80	9-4-80	TA-W-10,886	Drive shafts for marine pleasure craft.
Roper Luggage (workers)	Sardis, MS	9-9-80	9-4-80	TA-W-10,887	Manufacture luggage.
Autlan Manganese Corp. (USWA)	Mobile, AL	9-8-80	9-2-80	TA-W-10,888	Ferrosilicon.
Brown Shoe Co. (ACTWA)	Owensville, MO	5-28-80	5-19-80	TA-W-10,889	Ladies shoes.
Chapper Iron Works Inc. (workers)	Detroit, MI	7-3-80	6-26-80	TA-W-10,890	Fabricate structural steel.
Farwest Garments Inc. (UGWA)	Seattle, WA	9-8-80	9-4-80	TA-W-10,891	Ski and outer wear.
Ferry Cap and Set Screw Co. (workers)	Cleveland, OH	7-10-80	6-23-80	TA-W-10,892	Manufactures fasteners nuts and bolts.
Joseph T. Ryerson & Son Steel Co. (Indpls. plant) (workers).	Indianapolis, IN	9-9-80	9-2-80	TA-W-10,893	Steel service center.
Lamson & Sessions Co. (UAW)	Cleveland, OH	9-9-80	9-1-80	TA-W-10,894	Drive shafts for marine pleasure craft.
Plastic Molding Corp. (workers)	Ft. Enterprise, IN	6-26-80	6-16-80	TA-W-10,895	Brake parts for Delco.
Selastomer of Detroit (workers)	Farmington, MI	7-25-80	7-16-80	TA-W-10,896	Automotive seals.
Sinking Spring Foundry (USWA)	Sinking Spring, PA	9-8-80	9-3-80	TA-W-10,897	Automotive parts.
Allied Chemical Corp. (USWA)	Solvay, NY	9-8-80	8-21-80	TA-W-10,898	Synthetic soda ash.
American Synthetic Rubber Corp. (URW)	Louisville, KY	9-5-80	9-2-80	TA-W-10,899	Synthetic rubber.
AVC Corp. Modulus Corp. (USA)	Gary, IN	9-5-80	8-15-80	TA-W-10,900	Industrial fasteners.
Davenport Pontiac Inc. (IAMAW)	St. Louis, MO	9-11-80	8-20-80	TA-W-10,901	Auto dealership.
Liberty Leather Corp. (liberty assoc)	Gloversville, NY	9-8-80	9-2-80	TA-W-10,902	Tannery.
McIntee Motors (workers)	Struthers, OH	9-11-80	9-3-80	TA-W-10,903	Auto dealership.
Michael Chevrolet (workers)	Muskegon, MI	9-8-80	8-29-80	TA-W-10,904	Auto and truck dealership.
Optique Dumonde Ltd. (workers)	Trumbull, CT	6-17-80	6-12-80	TA-W-10,905	Glass frames.
Patmal Corp. (workers)	Fraser, MI	6-25-80	6-20-80	TA-W-10,906	Auto component parts, car molding and handles.
Eaton Corp. (workers)	Humboldt, TN	9-8-80	8-22-80	TA-W-10,907	Truck axle housing.
Rexnord Inc. (USWA)	Springfield, NA	9-9-80	9-4-80	TA-W-10,908	Industrial chain.
SMC Manufacturing Co. (workers)	Dckerville, MI	9-9-80	9-5-80	TA-W-10,909	Molding of auto mirror.
Unarco—Leavitt Div. (company)	Chicago, IL	8-28-80	8-28-80	TA-W-10,910	Electric—welded mechanical and structural steel tubing.
United Pocahontas Coal Co. Algoma #14	McDowell Co., WV	6-30-80	6-27-80	TA-W-10,911	Metallurgical coal.

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BILLING CODE 4510-28-M

[TA-W-9367]

Dexter Mills; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a worker petition received on June 27, 1980 which was filed on behalf of workers and former workers producing drapery fabrics at Dexter Mills, Dexter, Maine.

On July 14, 1980, an investigation (TA-W-9301) was initiated on behalf of the same group of workers as TA-W-9367.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9301, a new investigation would serve no purpose. Consequently, the investigation (TA-W-9367) has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29087 Filed 9-18-80; 8:45 am]

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[TA-W-7258]

Dana Corp.; Negative Determination on Reconsideration

On August 4, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing driveshafts and universal joints and components at Dana Corporation's Marion, Indiana, plant.

The union claimed that driveshaft components, other than journal crosses and bearing races whose workers were certified, are being imported by Dana's Marion, Indiana, plant and that these imports have caused layoffs. The union further claims that Dana lost business because imported vehicles are already fitted with driveshafts.

The Department's review showed that workers at Dana Corporation's Marion, Indiana, plant did not meet the increased import criterion of the Trade Act of 1974 with respect to universal joints and driveshafts. The ratio of imports to domestic production for universal joints and driveshafts was approximately 2 percent in 1979. Further, Dana did not import universal joints or driveshafts but does import components for these products including journal

crosses and bearing races—two products on which workers at Marion were certified for trade adjustment assistance.

On reconsideration, the Department found that although Dana's Marion plant imports other components besides bearing races and journal crosses for universal joints and driveshaft assemblies, these imported components are generally directly related to production of such components at the Marion plant. For example, as component production increases or decreases, imported components increase and decrease, respectively.

The Department sees no validity, in the context of the coverage limitations of the Trade Act of 1974, in the union's claim concerning the lost business because of imported vehicles already fitted with driveshafts. Imported vehicles cannot be considered like or directly competitive with driveshafts and universal joints. The Department has previously determined that a finished article is not like or directly competitive with its component parts. This position is supported by the courts.

Conclusion

After reconsideration, I reaffirm the original Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance to workers and former workers of Dana Corporation's Marion, Indiana, plant.

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

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-29094 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

Glorianne Dress, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations begun or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 29, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 29, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of September 1980.

Dominic Sorrentino,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Glorianne Dress (workers)	Brooklyn, NY	8-27-80	8-22-80	TA-W-10,547	Dresses.
Glorianne Dress (workers)	Dupont, PA	8-27-80	8-22-80	TA-W-10,548	Dresses.
Jones & Vining Corp. of Salem (workers)	Salem, MA	9-2-80	8-7-80	TA-W-10,549	Plastic shoe last.
Jules T. Garfall (workers)	Johnstown, NY	8-27-80	8-25-80	TA-W-10,550	Leather garments.
Murray Corp. Refrigerator Division (workers)	Eastlake, OH	8-27-80	8-18-80	TA-W-10,551	Air conditioners for cars.
Plymouth Metal Abrasive (workers)	Westland, MI	8-27-80	8-20-80	TA-W-10,552	Reclaimed steel shot production.
Rome Turney Radiator (workers)	Rome, NY	9-2-80	8-20-80	TA-W-10,553	Heat exchange units.
San-Den Inc. (workers)	Corona, NY	8-27-80	8-23-80	TA-W-10,554	Blouses and dresses.
The Isaac Corp. (workers)	Brookpark, OH	8-27-80	8-23-80	TA-W-10,555	Scrap iron processors.
The Isaac Corp. (workers)	Defiance, OH	8-27-80	8-23-80	TA-W-10,556	Scrap iron processors.
Bethlehem Mines Corp., Mine #60 (UMWA)	Cokeburg, PA	8-18-80	8-15-80	TA-W-10,557	Coal.
Bethlehem Mines Corp., Mine #51 (UMWA)	Ellsworth, PA	8-18-80	8-15-80	TA-W-10,558	Coal.
Bethlehem Mines Corp., Mine #58 (UMWA)	Marianna, PA	8-18-80	8-15-80	TA-W-10,559	Coal.
International Harvestor Renewal (workers)	Franklin, IN	8-25-80	8-20-80	TA-W-10,560	Assembling and testing of machine parts.
International Harvestor Renewal (workers)	Franklin, IN	8-25-80	8-20-80	TA-W-10,561	Machine parts.
Jones and Laughlin Vesta #5 mine complex (UMWA).	Vestaburg, PA	8-18-80	8-15-80	TA-W-10,562	Coal.
Milwaukee Spring Co. (workers)	Milwaukee, WI	8-28-80	7-31-80	TA-W-10,563	Push-pull controls, hood releases, brakes releases, heater controls, and air vent controls for cars.
Ring Screw Works Co., Ferndale Fastener Division (UAW).	Madison Hghts, MI	8-25-80	8-19-80	TA-W-10,564	Bolt and washer assemblies.
Whitaker Cable Corp. (workers)	Brookfield, MO	8-28-80	8-25-80	TA-W-10,565	Car wiring and harnesses.
Kaiser Steel Corp., MPD Fab Plant #2 (workers).	Fontana, CA	8-25-80	8-19-80	TA-W-10,566	Normalization of steel plate for Kaiser steel.
Spenax Corporation (UAW)	Bad Axe, MI	8-25-80	8-21-80	TA-W-10,567	Wire fasteners.
Illinois Slag & Ballast (workers)	Muskegon, IL	8-20-80	8-18-80	TA-W-10,568	Digging slag.
Teledyne Vasco (USWA)	Latrobe, PA	8-22-80	8-19-80	TA-W-10,569	Specialty steel.
RSI Products Fabricator (workers)	New Hudson, MI	8-22-80	8-11-80	TA-W-10,570	Assembly plastic work.
Philbert Sportswear, Inc. (ILGWU)	New York, NY	7-7-80	7-2-80	TA-W-10,571	Sportswear.
Aero-Detroit Inc., Fisher Body B&C Prog. (workers).	Oak Park, MI	8-25-80	8-22-80	TA-W-10,572	Engineering services under contract.
Lund American (workers)	Shell Lake, WI	8-25-80	8-20-80	TA-W-10,573	Auto motors, bolts and screws.
Champion Home Builders, Dryden Products Division #81 (workers).	Dryden, MI	8-25-80	8-19-80	TA-W-10,574	Vacuum forming-plastic parts.
B. & C. Machine Co. Inc. (company)	Barberton, OH	8-26-80	8-22-80	TA-W-10,575	Aluminum wheels.
Hertford Apparel (ILAWU)	Hertford, NC	8-25-80	8-22-80	TA-W-10,576	Men's knit shirts.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Jacklin Steel (workers)	Lansing, MI	8-26-80	8-14-80	TA-W-10,577	Steel processing.
Jones & Laughlin Steel Corporation (USWA)	Aliquippa, PA	8-25-80	8-22-80	TA-W-10,578	Tin mill and tin mill products.
Lehigh Structural Steel Company. (workers)	Allentown, PA	8-26-80	8-22-80	TA-W-10,579	Fabricated steel transmission towers used for the transmission of electric power.
Wohlert Corp., Springfield Mfg. Division (workers).	Springfield OH	8-26-80	8-22-80	TA-W-10,580	Flywheel starter ring gears used in starting all engines of automobiles.
T. R. Moen Corp. (workers)	Fenton, MI	8-26-80	8-22-80	TA-W-10,581	Automotive—make parts for General Motors and Chrysler.
Thunderline Corp. (company)	Wayne, MI	8-26-80	8-21-80	TA-W-10,582	Spark plug boots and related rubber and silicone parts for American Automobiles.
Vassar Mfg. Co. (workers)	Vassar, MI	8-27-80	8-15-80	TA-W-10,583	Clutch plates for G.M.
Brown Shoe Co. (ACTWU)	Union, MO	8-27-80	8-1-80	TA-W-10,584	Shoe parts.
Carmet Co. Material Division (workers)	Madison Hgts., MI	8-27-80	8-21-80	TA-W-10,585	Tungsten cemented carbide cutting tools.
George I. Landry (workers)	Ferndale, MI	7-9-80	7-3-80	TA-W-10,586	Construction company.
M & G Engineering (workers)	Marine City, MI	8-20-80	8-15-80	TA-W-10,587	Automotive stamping.
Ramsey Corp. (workers)	Manchester, MO	8-25-80	8-20-80	TA-W-10,588	Piston rings.
Alles Shake Mill (workers)	Taholah, WA	8-25-80	8-1-80	TA-W-10,589	Cedar shakes.
Rancour Machs. Prods. Inc., (workers)	Reed City, MI	8-22-80	8-12-80	TA-W-10,590	Screw machine products.
Ren Plastics Department (workers)	Lansing, MI	8-25-80	8-13-80	TA-W-10,591	Formulated products for the tooling and adhesive industries.
Whittaker Steel Strip (workers)	Detroit, MI	8-19-80	7-12-80	TA-W-10,592	Steel strips.
Burke Mills Inc. (workers)	Valdese, NC	8-28-80	8-25-80	TA-W-10,593	Double-knit fabrics.
Fuel Systems Inc., (workers)	Arab, AL	8-29-80	8-25-80	TA-W-10,594	Filler pipes for American motors.
Hoover Universal Inc, (workers)	Adrian, MI	8-29-80	8-26-80	TA-W-10,595	Automotives seating components.
Lexington Sportswear Co. (workers)	Lexington, SC	8-29-80	8-25-80	TA-W-10,596	Men's jackets.
North American Industries Inc. (workers)	Grand Rapids, MI	9-2-80	8-25-80	TA-W-10,597	Automotive components.
Pierce Garment Co., Inc. (workers)	New Bedford, MA	9-2-80	8-25-80	TA-W-10,598	Women's clothing.
Riverside Mfgr. (teamsters)	Dearborn, MI	8-19-80	8-14-80	TA-W-10,599	Plastic parts.
Star Screw Products, Inc. (company)	Wyandotte, MI	8-29-80	8-27-80	TA-W-10,600	Screw machines.
Warrior and Gulf Navigation (USWA)	Port Birmingham, AL	7-19-80	7-17-80	TA-W-10,601	Loading and unloading cargoes.
Armco, Inc. (USWA)	North Wildwood, FL	8-25-80	8-22-80	TA-W-10,602	Stainless steel pipe and fitting.
Beaver Street, Trading Corp. (workers)	New York, NY	6-17-80	6-12-80	TA-W-10,603	Imported leather goods.
Bishop Product Inc. (workers)	Au Gres, MI	8-25-80	8-22-80	TA-W-10,604	Paint protectors.
Chase Brass & Copper Co. (IAM&AW)	Cleveland, OH	9-2-80	8-26-80	TA-W-10,605	Copper and brass sheet metal.
Ideal Industries (workers)	Upland, CA	8-20-80	8-18-80	TA-W-10,606	Travel trailers.
Lustre Plating Co. (workers)	Detroit, MI	8-25-80	8-20-80	TA-W-10,607	Chrome and nickel plating.
Post Shake (workers)	Montesano, WA	8-25-80	8-20-80	TA-W-10,608	Shakes.
Union Carbide Metals (OCAWU)	Marietta, OH	8-25-80	8-18-80	TA-W-10,609	Ferro alloys.
Western Electric (CWA)	Norcross, GA	8-8-80	7-31-80	TA-W-10,610	Telephone cables.
Beth-Elkhorn Corp. Mine 3 29 (UMWA)	Virgie, KY	8-29-80	8-22-80	TA-W-10,611	Bituminous coal.
Doran Advertising Inc. (company)	Cincinnati, OH	9-2-80	8-28-80	TA-W-10,612	Advertising for Ford Dealers.
Electro Finishing Industries (workers)	Oak Park, MI	8-29-80	8-26-80	TA-W-10,613	Plating.
Harbison-Walker Refractories (OCAWU)	Ludington, MI	8-29-80	8-24-80	TA-W-10,614	Dead burned magnasite.
Harshaw Chemical Co. (workers)	Gloucester, NJ	9-2-80	8-20-80	TA-W-10,615	Antimony oxide.
Metal Forge Co. (workers)	Columbus, OH	9-2-80	8-28-80	TA-W-10,616	Front end suspensions.
Moore Iron Works (UAW)	Owosso, MI	9-2-80	8-25-80	TA-W-10,617	Manufacture of material handling.
Nova Inc. (workers)	Fowerville, MI	8-28-80	8-19-80	TA-W-10,618	Injection molded auto parts interior trim parts windshield washer bottles.
Ohio Carbon Co. (workers)	Cleveland, OH	9-2-80	8-28-80	TA-W-10,619	Suppressor resistors.
Beavty Rite Cabinets (workers)	Pontiac, MI	9-3-80	8-28-80	TA-W-10,620	Kitchen cabinets.
Brand and Purity (ILGWU)	Kansas City, MO	9-2-80	8-20-80	TA-W-10,621	Children's and women's coats.
California Steel Co. (Teamsters)	Chicago, IL	9-3-80	8-27-80	TA-W-10,622	Hot rolled steel rounds, squares, flats, and reinforcing bars.
Daj, Inc. (ILGWU)	Minneapolis, MN	9-2-80	8-22-80	TA-W-10,623	Ladie's sportswear.
Danbar (workers)	Mt. Clemens, MI	9-2-80	8-6-80	TA-W-10,624	Automotive metal stamping.
Men'dels, Inc. (ILGWU)	Kansas City, MO	9-2-80	8-20-80	TA-W-10,625	Ladies blouses and dresses.
Robinson Mfg. Co. (union)	Kansas City, MO	9-2-80	8-18-80	TA-W-10,626	Dresses, suits, sportswear.
Troy Lane Apparel, Inc. (ILGWU)	New Castle, IN	9-3-80	8-29-80	TA-W-10,627	Pants suits, blouses, shirts.
Xlo Tool and Abrasive Corp. (workers)	Pendelton, IN	9-3-80	8-20-80	TA-W-10,628	Honing stones.
Actos Industries (workers)	Pontiac, MI	9-3-80	8-25-80	TA-W-10,629	Repair fabricate and machine steelmill mechanical equipment.
Bethlehem Stell Corp. (workers)	Strongsville, OH	9-3-80	8-29-80	TA-W-10,630	Strip rod, wire bars, billets.
Double-Z Knitwear (workers)	Brooklyn, NY	9-3-80	8-28-80	TA-W-10,631	Knitted sportwear.
Esas Inc. DBA Spec. II., (workers)	Malden, MA	8-27-80	8-19-80	TA-W-10,632	Installation kits for auto radios.
Indianapolis Glove Co., (workers)	Noxapater, MS	9-3-80	8-23-80	TA-W-10,633	Gloves.
Jones and Laughlin Steel Corp. Pitts. Strip Sheet Division (USWA).	Pittsburgh, PA	8-11-80	8-4-80	TA-W-10,634	Steel strip sheets.
Rockwell International Plastics Div. (UAW)	Ashtabula, OH	8-27-80	7-25-80	TA-W-10,635	Fiberglass car hoods.
The Edwards Corp. (workers)	Warren, OH	9-3-80	8-29-80	TA-W-10,636	Tractor, trailor maintenance.
Wauseon Mfg. Co. (IBEW)	Wausean, OH	8-25-80	8-22-80	TA-W-10,637	Wire automobile harnesses.
Allied Chemical Semet Solvay Division	Ashland, KY	9-3-80	8-29-80	TA-W-10,638	Coke.
Blairsville Mfg. Co. (CTWU)	Blairsville, PA	9-3-80	8-28-80	TA-W-10,639	Blue jeans.
Bopp-Busch Mfg. Co. (workers)	Au Gres, MI	9-2-80	8-22-80	TA-W-10,640	Metal stampings, wire parts, and dies.
John E. Lucy Shoes (workers)	Bridgewater, MA	7-24-80	7-18-80	TA-W-10,641	Men's dress shoes.
Monsanto Plastic and Resin Birch and Bend Plant, South Betuar Dept. (workers).	Indian Orchard, MA	8-25-80	8-20-80	TA-W-10,642	Various resin compounds.
Norco Spring Co.	Bethel Springs, TN	9-3-80	8-24-80	TA-W-10,643	Industrial coil springs.
Sun Mark Ind. Sun Oil Co. (workers)	Baltimore, MD	7-18-80	7-17-80	TA-W-10,644	Process crude oil.
Vamoo Products	St. Bernard, OH	9-3-80	9-3-80	TA-W-10,645	Paint, thinners, lacquers.
Preferred Tool & Die Co. Inc. (workers)	Cumstock Park MD	9-3-80	8-27-80	TA-W-10,646	Sheet metal stamping dies.
Allied Chemical Corp., Fiber & Plastics Co. (OCAW).	Tonawanda, NY	9-3-80	8-29-80	TA-W-10,647	AC polyethylene.
Brown Shoe Co. (workers)	Booneville, MI	8-25-80	8-22-80	TA-W-10,648	Produces womens dress shoes.
Good Year Tire and Rubber Co. (workers)	Danville, VA	9-2-80	8-25-80	TA-W-10,649	Truck and aircraft tires.
J & R Construction, Inc. (workers)	Flint, MI	9-2-80	8-26-80	TA-W-10,650	Contractors for highway repairs, etc.
Jones & Laughlin Steel, Old Finished Bar Div. (workers).	Hammond, IND	9-2-80	8-27-80	TA-W-10,651	Cold finished bars.
Ross Gear (workers)	Lebanon, TN	9-2-80	8-22-80	TA-W-10,652	Pumps, valves, power steering gears, etc.
Spinnerin Yarn Co (TMSTR)	So. Hackensack, NJ	9-2-80	8-26-80	TA-W-10,653	Dyeing, spinning, and sconing yarn.
Terri Girl Inc. (workers)	Hoboken, NJ	9-3-80	8-27-80	TA-W-10,654	Blouses, pants, vest, Jackets etc.
Wyandotte Paint Products, (workers)	Troy, MI	9-3-80	8-22-80	TA-W-10,655	Engine enamels, auto primers, etc.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. O. Smith Corp. (DALU)	Milwaukee, WI	8-25-80	8-20-80	TA-W-10,656	Automotive parts.
Advanced Technologies Inc. (workers)	Bay City, MI	9-3-80	8-18-80	TA-W-10,657	Automated machinery and production parts.
Aileen Inc. (workers)	McKenney, VA	9-2-80	8-27-80	TA-W-10,658	Blouses.
Compo Industries Inc, Equipment Division (company).	Waltham, MA	9-2-80	8-27-80	TA-W-10,659	Shoe and apparel machinery.
Croswell Plastics Inc. (workers)	Croswell, MI	9-2-80	8-27-80	TA-W-10,660	Injection moldings.
Falcon Industries Inc. (workers)	Warren, MI	9-3-80	9-4-80	TA-W-10,661	Package automotive parts.
Rocket Research Co. (workers)	Moses Lake, WA	9-3-80	8-27-80	TA-W-10,662	Solid propellant inflator cartridges.
Uniroyal Inc. (workers)	Allen Park, MI	9-3-80	8-9-80	TA-W-10,663	Rubber/canvas footwear.
The Exolon Co. (USWA)	Tonawanda, NY	9-2-80	8-26-80	TA-W-10,664	Abrasive and refractory material.
Dale Baker Oldsmobile & Honda Inc. (workers).	Grand Rapids, MI	7-31-80	7-25-80	TA-W-10,665	Sell cars.
Eastern Assoc. Coal Corp., Keystone No. 1 Mine (UMWA).	McDowell County, WV	9-2-80	8-25-80	TA-W-10,666	Coal, mining.
Consolidation Coal Co., Eckman No. 11 Mine (UMWA).	McDowell County, WV	9-2-80	8-25-80	TA-W-10,667	Coal, mining.
Florsheim Shoe Co. (ACTWU)	Cape Girardeau, MO	9-2-80	8-28-80	TA-W-10,668	Men's shoes.
Hawley Coal Mining Corp., No. 1 Mine (UMWA).	McDowell Co., WV	9-2-80	8-28-80	TA-W-10,669	Coal, mining.
Hawley Coal Mining Corp., No. 2 Mine (UMWA).	McDowell Co., WV	9-2-80	8-26-80	TA-W-10,670	Coal, mining.
Hawley Coal Mining Corp., Bradshaw No. 6 Mine (UMWA).	McDowell Co., WV	9-2-80	8-26-80	TA-W-10,671	Coal, mining.
Hawley Coal Mining Corp., Tipple Bradshaw (UMWA).	McDowell Co., WV	9-2-80	8-26-80	TA-W-10,672	Coal, mining.
Hawley Coal Mining Corp., Tipple Landgraff (UMWA).	McDowell Co., WV	9-2-80	8-26-80	TA-W-10,673	Coal, mining.
Brookfield Clothes Inc. (workers)	Long Island City, NY	9-2-80	8-28-80	TA-W-10,674	Men's clothing.
C & A Knitting Mill-Bangor Division (workers)	Cowpens, SC	8-20-80	8-18-80	TA-W-10,675	Wearing apparel, automotive headliner and body cloth.
Columbus Auto Parts (workers)	Columbus, OH	9-2-80	8-23-80	TA-W-10,676	Steering linkages.
Consolidation Coal Company-Jenkinjones Mine (union).	McDowell County, WV	9-2-80	8-26-80	TA-W-10,677	Coal and mining.
Consolidation Coal Company-Preparation Plant (union).	McDowell County, WV	9-2-80	8-26-80	TA-W-10,678	Coal and mining.
Eastern Associated Coal (workers)	Bald Knob, WV	9-2-80	8-28-80	TA-W-10,679	Metallurgical coal.
Ken Brown Motors (workers)	Detroit, MI	8-29-80	8-20-80	TA-W-10,680	Auto dealership.
Garden State Tanning Inc. (union)	Fleetwood, PA	9-2-80	8-28-80	TA-W-10,681	Tanning, finishing and cutting leather.
United Technologies, Essex Group Inc. (workers).	Columbia City, IN	9-3-80	7-28-80	TA-W-10,682	Component parts for Ford, General Motors and Chrysler.
Ford Motor Company, Carribean, Inc. (Co.)	Canovanas, PR	9-3-80	8-25-80	TA-W-10,683	Ball bearings and precision components.
General Electric (union)	Ft. Smith, AR	9-3-80	8-26-80	TA-W-10,684	Air conditioning units.
General Tire Co. (union)	Reading, MA	9-3-80	5-20-80	TA-W-10,685	Vinyl coated fabrics.
Jo-Ad Industries Inc. (Co.)	Madison Heights, MI	9-2-80	8-25-80	TA-W-10,686	Experimental prototype.
L & S (workers)	Amityville, NJ	9-3-80	8-27-80	TA-W-10,687	Ladies coats.

[FR Doc. 80-29092 Filed 9-18-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-9512]

Hanna Furnace Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 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 merchant pig iron for Hanna Furnace Corporation, Buffalo, New York.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a determination issued on January 9, 1979. Since workers of Hanna Furnace Corporation, Buffalo, New York newly separated, totally or partially, from employment on or after October 13, 1977 (impact date) and before January 9, 1981 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 10th day of September, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29089 Filed 9-18-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-10,498]

Joseph M. Herman Shoe Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition which was filed by the Commercial Workers Union on behalf of workers at Joseph M. Herman Shoe Company, Scarborough, Maine. Workers at the Scarborough plant produce men's work shoes and boots.

Section 221 (a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative. During the course of the investigation, it was established that the Commercial Workers Union is not an authorized representative of the workers of Joseph M. Herman Shoe Company, Scarborough, Maine. Consequently, the investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29070 Filed 9-18-80; 8:45 am]
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[TA-W-10,472]

Lear Siegler, Inc., Metal Products Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition received on August 19, 1980 which was filed on behalf of workers and former workers producing fabricated metal parts for automobiles and trucks at the Metal Products Division of Lear Siegler, Incorporated, Detroit, Michigan (TA-W-10,472).

On June 30, 1980, a petition was filed on behalf of the same group of workers (TA-W-9337).

Since the identical group of workers is the subject of the ongoing investigation TA-W-9337, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 9th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29095 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9399]

Michigan Plating and Stamping Division, Gulf & Western Manufacturing Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 21, 1980 in response to a worker petition received on July 8, 1980 which was filed on behalf of workers and former workers producing automobile bumpers at Michigan Plating and Stamping, a division of Gulf and Western Manufacturing Company, Grand Rapids, Michigan.

On June 26, 1980, a petition was filed on behalf of the same group of workers (TA-W-9637).

Since this identical group of workers is the subject of the ongoing investigation TA-W-9673, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C. this 10th day of September, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29091 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9638]

Moco, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 (TA-W-9638) in response to a worker petition which was filed by the Retail, Wholesale and Department Store Union on behalf of workers at Moco, Inc., Alexandria, Indiana. The workers are involved in the disassembly and cleaning of automotive parts at Moco, Inc., Alexandria, Indiana.

On June 14, 1980 an investigation was initiated in response to a worker petition received on June 30, 1980 which was filed on behalf of workers involved in the disassembly and cleaning of automotive parts at Moco, Inc., Alexandria, Indiana (TA-W-9323).

Since this identical group of workers is the subject of the ongoing investigation TA-W-9323, the investigation for TA-W-9638 has been terminated.

Signed at Washington, D.C. this 15th day of September, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29075 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,000]

Modine Manufacturing Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 1980 in response to a worker petition received on July 29, 1980 which was filed on behalf of workers of the Trenton, Missouri plant of Modine Manufacturing Company. The workers produce padded automotive door panels.

The investigation revealed that another petition (TA-W-9766) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA-W-9766), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29086 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7739]

N.I.D. Shake Co.; Affirmative Determination Regarding Application for Reconsideration

On July 14, 1980, the owner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of the N.I.D. Shake Company, Humptulips, Washington. The determination was published in the **Federal Register** on July 7, 1980, (45 FR 45740).

The application for reconsideration claimed that the Department's customer survey is in error because the N.I.D. Shake Company's broker's customer failed to provide adequate information.

Conclusion

After review of the application, I conclude that the owner's claim is 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 10th day of September 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-29093 Filed 9-18-80; 8:45 a.m.]

BILLING CODE 4510-28-M

[TA-W-10,349]

New Jersey Zinc. Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 25, 1980 in response to a worker petition received on August 13, 1980 which was filed on behalf of workers and at New Jersey Zinc Company, Palmerton, Pennsylvania. The workers produce zinc metal, zinc oxide and carbon dioxide.

On August 18, 1980, an investigation (TA-W-10,251) was initiated on behalf of the same group of workers as TA-W-10,349.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,251, a new investigation would serve no purpose. Consequently, the investigation (TA-W-10,349) has been terminated.

Signed at Washington, D.C. this 15th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-29076 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-28-M

Penn-Dixie Steel Corp., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period September 8-12, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the

workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-9774, 9775, and 9776; Penn-Dixie Steel Corp., Joliet, IL; Kokomo, In., and Centerville, IA

Investigation revealed that criterion (3) has not been met. A customer survey revealed that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7246; Sheller-Globe Corp., Hardy Division, Union City, IN

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separation at the firm.

TA-W-7439; Armstrong Rubber Company, Little Rock, AR

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7531; Metal Farming and Coining Corp., Maumie, OH

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7650; Firestone Synthetic Rubber and Latex Co., Akron, OH

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7771; Miller Shingle Co., Inc., Granite Falls, WA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7868; Goodyear Tire and Rubber Co., Gadser, AL

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7874; I. Appel Corp., Secaucus, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7887; Takhoma Manufacturing Corp., Hoquiam, WA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7955; Carol Ann Apparel Corp., Hastings, PA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7966; Southern Wersted Mills, Inc., Greenville, SC

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8048; Woonsocket Spinning Co., Charlotte, NC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of yarn and finished fabric did not increase as required for certification.

TA-W-8990; Sunshine Shake Company, Forks, WA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8141; General Electric Co., Owenboro, KY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of electronic receiving tubes did not increase as required for certification.

TA-W-8374; Belding Tool and Machine Corp., Belding, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8377; Waldman Corp., Parsippany, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8396; T. I. Swartz Clothiers, Inc., Baltimore, MD

Investigation revealed that criterion (3) has not been met. Sales declines at the subject firm were consistent with a general decline in imports and consumption of men's tailored clothing in 1979 and in the first quarter of 1980, and are attributable primarily to general economic conditions.

TA-W-8656; Delight Sportswear, Inc., New York, NY

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8662; Ring Screw Works Co., Fenton, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8712; Allied Maintenance Corp., Lavergne, TN

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8793; St. Regis Paper Co., Ypsilant, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of corrugated boxes are negligible.

TA-W-8901; Hurley Shake Co., Forks, WA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8976; Sunstar Foods, Inc., South St. Paul, MN

Investigation revealed that criterion (3) has not been met. Sales by the subject firm increased in 1979 compared to 1978 and in January 1980 compared to January 1979. Employment declines resulted from a strike at the firm which began in February 1980.

TA-W-9032; S&A Coal Company, Princeton, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-9036; Herman Segall and Co., Inc., Philadelphia, PA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9208; Landy Beef Co., Inc., Boston, MA

Investigation revealed that criterion (3) has not been met. Separates at the subject firm were the result of the firm's inability to obtain sufficient quantities of raw veal from its suppliers.

TA-W-9227; Benham Coal, Inc., Benham, KY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-9243; International Telephone and Telegraph Corp., Midland, NJ

Investigation revealed that criterion (3) has not been met. Separations from the subject firm have not been significant and are expected to be short term in nature.

TA-W-9272; Steve Baker and Associates, Inc., St. Louis, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9275; Hatzel and Buehler, Inc., Oak Park, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9279; White Builders of Utica, Inc., Utica, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firm, which are related to the construction of new homes. There are no imports of new homes.

TA-W-9353; Marlette Homes, Inc., Marlette, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firm, which are related to the construction of new homes. There are no imports of new homes.

TA-W-9514; Para Quality Carpentry, Inc., Utica, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firms, which are related to the construction of new homes. There are no imports of new homes.

TA-W-9727; Sergio Guerra Carpentry Co., Warren, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firm, which are related to the construction of new homes. There are no imports of new homes.

TA-W-9745; I.D.R. Carpentry, Detroit, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firm, which are related to the construction of new homes. There are no imports of new homes.

TA-W-9982; Moeller Construction Company, Romeo, MI

Investigation revealed that criterion (3) has not been met. Imports of automobiles may not be considered like or directly competitive with activities such as those performed by workers of the subject firm, which are related to the construction of new homes. There are no imports of new homes.

TA-W-10,179; C&B Enterprises, Inc., Marine City, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,421; Meedco, Inc., Galveston, IN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tools and die are negligible

TA-W-7856; Ward Products, Corp., South Amboy, New Jersey

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8362; General Cable Co., Warrenton, Missouri

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA-W-7623; Weyerhaeuser Co., Raymond, Washington

A certification was issued covering all workers of the firm separated on or after January 1, 1980.

TA-W-8313; Park Hill Coat Co., Inc., North Lindenhurst, New York

A certification was issued coverning all workers of the firm separated on or after November 9, 1970 and before February 1, 1980.

TA-W-10,334; Ford Motor Company, Ford Division, Newark Dist. Sales Office, Teterboro, New Jersey

A certification was issued covering all workers of the firm separated on or after October 31, 1979.

TA-W-8359; Artemis Shake Company, Clearwater, Washington

A certification was issued covering all workers of the firm separated on or after August 1, 1979.

TA-W-8301; Clifton Heights Sportswear, Inc., Clifton Heights, Pennsylvania

A certification was issued covering all workers of the firm separated on or after May 1, 1979.

TA-W-8195, 8196, 8196A; Kramer Jewelry Creations, Inc., New York, New York, New York, New York, Chicago, Illinois

A certification was issued covering all workers of the firm separated on or after May 12, 1979.

TA-W-7670; Commonwealth Shoe Company, Whitman, Massachusetts

A certification was issued covering all workers of the firm separated on or after March 29, 1980.

TA-W-7937, Boyd Lumber Corporation, Sedro Woolley, Washington

A certification was issued covering all workers of the firm separated on or after April 18, 1979.

TA–W–8405; Breaker Shake, Hoquiam, Washington

A certification was issued covering all workers of the firm separated on or before August 14, 1979.

TA–W–9341; Costview Chrysler-Plymouth, Inc., Victor, New York

A certification was issued covering all workers of the firm separated on or after May 1, 1980 and before August 1, 1980.

TA–W–9095, 9095A–D; Glen of Michigan, Inc., Mainstee, Michigan, Patchwork Stores, Inc., Mainstee, Michigan, Grand Rapids, Michigan, Grand Haven, Michigan, Traverse City, Michigan

A certification was issued covering all workers of the firm separated on or after June 6, 1979.

TA–W–8169, 8170, 8171; Chatham Dress Company, Inc., Bridgeton, New Jersey, Salem, New Jersey, Elmer, New Jersey

A certification was issued covering all workers of the Elmer, New Jersey plant separated on or after May 8, 1979..

With respect to workers of the Bridgeton, New Jersey and Salem, New Jersey plants, investigation revealed that criterion (1) has not been met.

I hereby certify that the aforementioned determinations were issued during the period September 8–12, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: September 15, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–29088 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–10483]

Rockwell International Power Tool Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was instituted on September 2, 1980 (TA–W–10483) in response to worker petition which was filed by the United Steelworkers of America on behalf of workers at Rockwell International, Power Tool Division, Tupelo, Mississippi. The workers produce stationary wood power tools.

On August 25, 1980 an investigation was initiated in response to a petition received on August 18, 1980 which was filed by the United Steelworkers of America on behalf of workers producing stationary wood power tools at Rockwell International, Power Tool Division, Tupelo, Mississippi (TA–W–10,409).

Since the identical group of workers is the subject of the ongoing investigation (TA–W–10,409), the investigation for TA–W–10483 has terminated.

Signed at Washington, D.C. this 10th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–29090 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–9728]

Sheller-Globe Corp.; 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 7, 1980 which was filed on behalf of workers of the Niles, Michigan plant of Sheller-Globe Corporation. The workers produce padded automotive door panels.

The investigation revealed that another petition (TA–W–9650) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA–W–9650), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 15th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–29077 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–28–M

White House Coal Advisory Council; Meeting

The White House Coal Advisory Council was created by Executive Order 12229 on July 29, 1980 to advise the President and Secretary of Labor on matters relating to the use of coal in meeting energy demand in the United States.

Notice is hereby given that the White House Coal Advisory Council will meet at 9:30 a.m. on September 22, 1980, at the Conference Center, State Capital Complex, Building No. 7, Charleston, West Virginia. The 15-day notice required by the Federal Advisory Committee Act cannot be met due to the fact that schedule changes left September 22, 1980, as the only available day in September that all 15 Council members could meet.

The meeting will be an organizational meeting and is open to the public.

For additional information contact: Mr. Juan Vigil, Executive Assistant to the Assistant Secretary of Labor-Management Relations, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523–6078.

Signed at Washington, D.C., this 16th day of September 1980.

William P. Hobgood,

Assistant Secretary for Labor-Management Relations.

[FR Doc. 80–29097 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–29–M

[TA–W–10,268]

Pantasote, Inc.; 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 1, 1980 which was filed on behalf of workers and former workers producing plastic injection molded parts used in assembly and manufacture of domestic automobiles at Pantasote, Incorporated, London, Ohio.

On July 28, 1980, a petition was filed on behalf of the same group of workers (TA–W–9992).

Since the identical group of workers is the subject of the ongoing investigation TA–W–9992, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–29085 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–28–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80–68; Exemption Application No. D–1227]

Exemption From the Prohibitions for Certain Transactions Involving Drs. Batten and Chicurel, Inc. Profit-Sharing Plan and Trust Located in Charlottesville, Va.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of certain real property by the Drs. Batten and Chicurel, Inc. Profit Sharing Trust (the Trust) to C & B Associates

Limited Partnership (the Partnership), a party in interest to the Trust.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C—4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52955) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction described in an application filed by Dr. James R. Batten and Dr. Joseph Chicurel, both of whom are fiduciaries of the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). This notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the paricipants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or adminstrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Trust selling for cash to the Partnership, within 30 days of the published grant of this exemption, certain real property, consisting of 4.78 acres located in the Wayne District of Augusta County, Virginia, for the higher of either the then current fair market value of the subject real property or the sum of $57,000. The exemption is subject to the conditions (1) that any prohibited transactions committed in connection with the Trust's acquisition, and the Partnership's use, of the real property is "corrected" within the meaning of section 4975 (f)(5) of the Code, and (2) that the excise taxes imposed by section 4975 of the Code by reason of such prohibited transactions are paid within 90 days of the published grant of this exemption.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of September, 1980.

Ian D. Lanoff,

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

[FR Doc. 80–29059 Filed 9–18–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–67; Exemption Application No. D–1020]

Exemption From the Prohibitions for Certain Transactions Involving the Southern California Retail Clerks Union and Drug Employer Pension Fund in Los Angeles, Calif. and the General Sales Employer—Retail Clerks Union Pension Fund in Los Angeles, Calif.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the General Sales Employer—Retail Clerks Union Pension Fund (the Sales Fund) from the Southern California Retail Clerks Union and Drug Employer Pension Fund (the Drug Fund) of an undivided forty percent (40%) ownership interest (the Undivided Interest) in certain improved real property located at 2220 Hyperion Avenue, Los Angeles, California (the Property) owned by the Drug Fund.

FOR FURTHER INFORMATION CONTACT: R. F. Nuissl of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S.

Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 17, 1980, notice was published in the **Federal Register** (45 FR 41093) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the purchase by the Sales Fund from the Drug Fund of the Undivided Interest. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have complied with the notification requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(1) and 406(b)(2) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplmental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Drug Fund and the Sales Fund and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Drug Fund and the Sales Fund.

Accordingly the restrictions of section 406(a) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the purchase by the Sales Fund from the Drug Fund of the Undivided Interest in the Property, as described in the notice of pendency, provided that the purchase price represents the fair market value of the Undivided Interest at the time of the consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of September.

Ian D. Lanoff,

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

[FR Doc. 80-29060 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-69; Exemption Application No. D-1805]

Exemption From the Prohibitions for Certain Transactions Involving the Reading and Bates Pension Plan Located in Tulsa, Okla.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the contribution of a fully renovated office building by Reading and Bates Corporation (the Employer) to the Reading and Bates Pension Plan (the Plan), and the subsequent leaseback of that building to the Reading and Bates Development Corporation (Development), a wholly owned subsidiary of the Employer, who will then sublease office space to parties in interest and unrelated third parties.

FOR FURTHER INFORMATION CONTRACT: Mr. Elliot Arditti of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 1, 1980, notice was published in the **Federal Register** (45 FR 51314) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested

exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was sent to all present employees who are participants in the Plan and all former employees having an interest in the Plan in compliance with the procedures set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the contribution of a fully renovated office building by the Employer to the Plan, and the subsequent leaseback of that building to Development, a wholly owned subsidiary of the Employer, who will then sublease office space to parties in interest and unrelated third parties pursuant to the terms and conditions as set forth in the notice of pendency.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of September 1980.

Ian D. Lanoff,

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

[FR Doc. 80-29061 Filed 9-18-80; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Thursday, September 25, 1980, in Room N5437C, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report.
2. Council Work Group Reports: Communications Work Group, Portability Work Group, Legislative Work Group, Collective Bargaining Work Group, and Reporting, Disclosure and Recordkeeping Work Group.
3. Statement from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before September 24, 1980, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S–4522, Third and Constitution Avenue, N.W., Washington, D.C.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523–8753.

Signed at Washington, D.C. This 2nd day of September 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 80-28950 Filed 9-16-80; 10:37 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts; Missouri

September 15, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Missouri in Kansas City, Missouri, to serve Barton, Camden, Hickory, Linn, McDonald, Putnam, St. Clair, Sullivan and Vernon Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan

Avenue—24th Floor, Chicago, Illinois 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-29001 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Missouri

September 15, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeast Missouri, Inc., to serve Adair, Clark, Knox, Lewis, Lincoln, Macon, Marion, Monroe, Montgomery, Pike, Ralls, Schuyler, Scotland and Shelby Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-29002 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; South Carolina

September 15, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Carolina Regional Legal Services, Inc., in Florence, South Carolina, to serve Florence and Clarendon Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, Ga. 30308.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-29005 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; South Carolina

September 15, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Neighborhood Legal Assistance Program, Inc., in Charleston, South Carolina, to serve Hampton County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, Ga. 30308.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-29004 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts; Texas

September 15, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

West Texas Legal Services in Fort Worth, Texas, to serve Andrews, Armstrong, Briscoe, Carson, Childress, Collingsworth, Cottle, Crane, Dallam, Dickens, Donley, Floyd, Foard, Garza, Gray, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Loving, Montague, Moore, Motley, Ochiltree, Oldham, Reagan, Roberts, Sherman, Stonewall, Throckmorton, Upton, Ward, Wheeler and Winkler Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-29003 Filed 9-18-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Task Group No 10; Advisory Council Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation annouces the following meeting:

Name: Task Group #10 of the NSF Advisory Council.

Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date: October 7, 1980, Tuesday.

Time: 9:00 a.m. till 5:00 p.m.

Type of meeting: Open.

Contact person: Ms. Jeanne E. Hudson, Executive Secretary of the NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550. Telephone: 202/357-9433.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: The Task Group is asked to determine if any evidence exists that especially adventurous research which might yield major "breakthough" advances is not being encouraged and funded at NSF. If so, the Task Group should suggest procedures and mechanisms within NSF

which will encourage the submission and selection of more such proposals.

M. Rebecca Winkler,

Committee Management Coordinator.

September 16, 1980.

[FR Doc. 80-28990 Filed 9-18-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341A]

The Detroit Edison Co.; Receipt of Operating License Application; Request for Antitrust Information

Note.—This document was originally published in the issue of September 5, 1980. It is reprinted at the request of the NRC.

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 60 days after the date of the **Federal Register** notice. 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 submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW, 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

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

September 15, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of Panel II (The American Economy: Employment, Productivity and Inflation) of the President's Commission for a National Agenda for the Eighties, scheduled September 16, 1980 from 10:00 a.m. to 1:00 p.m. in Room 9104 of the New Executive Office Building.

The purpose of the meeting is to discuss the panel's draft report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006. (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-29030 Filed 9-18-80; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

September 15, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of Panel VII (The Electoral and Democratic Process) of the President's Commission for a National Agenda for the Eighties, scheduled October 1, 1980 from 10:00 a.m. to 2:00 p.m. at 660 Madison Avenue, 13th Floor, New York, New York. The purpose of the meeting is to discuss the panel's draft report. Available seats will be assigned on a first-come basis. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006. (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-29031 Filed 9-18-80; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

September 16, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given for a meeting of Panel VIII (The Quality of American Life) of the President's Commission for a National Agenda for the Eighties, scheduled September 18, 1980 from 4:00 p.m. to 6:00 p.m. at 1 Lincoln Plaza, New York, New York. The purpose of the meeting is to discuss the finalization of the panel's draft report. Available seats will be assigned on a first-come basis. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-29032 Filed 9-18-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No.34-17148 File No. SR-CBOE-80-22]

Chicago Board Options Exchanges, Inc.; 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 September 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

The text of the proposed amendments is as follows with italics indicating additions and brackets indicating deletions.

Position Limits

Rule 4.11. *Except with the prior written premission of the President or his designee,* [N]*n*o member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange in any option contract dealt in on the Exchange if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in excess of [1,000] *2,000* option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given of each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange [floor].

* * * Interpretations and Policies:

.01 The following examples illustrate the operation of position limits established by Rule 4.11:

(a) Customer A, who is long [1,000] *2,000* XYZ calls, may at the same time be short [1,000] *2,000* XYZ calls, since long and short positions in the same class of options (i.e., in calls only, or in puts only) are on opposite sides of the market and are not aggregated for purposes of Rule 4.11.

(b) Customer B, who is long [1,000] *2,000* XYZ calls, may at the same time be long [1,000] *2,000* XYZ puts. Rule 4.11 does not require the aggregation of long call and long put (or short call and short put) positions, since they are on opposite sides of the market.

(c) Customer C, who is long [700] *1,500* XYZ calls, may not at the same time be short more than [300] *500* XYZ puts, since the [1,000] *2,000* contract limit applies to the aggregation of long call and short put positions in options covering the same underlying security. Similarly, if Customer C is also short [600] *1,200* XYZ calls, he may not at the same time be long more than [400] *800* puts, since the [1,000] *2,000* contract limit applies separately to the aggregation of short call and long put positions in options covering the same underlying security.

Exercise Limits

Rule 4.12. Except with the *prior* written permission of the President *or his designee,* no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange where such member or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five consecutive business days aggregate long positions in excess of [1,000] *2,000* option contracts of that class of options or such other number of option contracts as may be fixed from time to time by the Board as the exercise limit for that class of options. Reasonable notice shall be given of each new exercise limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange [floor].

Chicago Board Options Exchange's ("CBOE") Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The Special Study of the Options Markets recommended that existing exchange rules limiting the size of option positions by market participants be reexamined with a view to their relaxation or elimination. The Exchange and other self-regulatory organizations, after mutual consultation and review of experience to date under the existing position limit rules, have determined that the position limits should be raised from 1,000 to 2,000 contracts on the same side of the market and that the Exchange should be authorized to experiment with further relaxation or elimination of position limits in selected option classes.

As noted in the Report of the Special Study of the Options Markets ("Options Study"), position limits were intended to minimize manipulative potential and to prevent the accumulation and exercise of large call option position which, if exercised against uncovered writers, would cause them to become buyers of the underlying security and affect the price of that security. The Options Study observed that position limit rules have the effect of limiting the financial exposure of market participants. However, the Options Study also noted the restrictive effects that position limits have on the writing of calls and buying of puts by investors with large positions in the underlying security and on the proprietary trading member firms.

The Exchange does not believe that any justification exists for continuation of position limits at present levels. Over six years ago, when position limits were first established for listed options at 1,000 contracts, only call options were traded. Since the initiation of trading in put options, these same 1,000 contract limits are now applied to positions considered to be on the same side of the market (long call/short put, and long put/short call).

The Exchange's position limits were patterned after those in the commodities futures markets where physical limits on the supply of the underlying commodity gave rise to fears that futures traders might be able to effectively "corner the market" for the underlying commodity. Stringent listing standards for stock options made such a development unlikely with respect to an underlying security. However, concern persisted that wholesale exercise of long option positions might have an undue impact on the market for the underlying security, particularly if there were a large uncovered short interest in an option class and uncovered writers were forced to enter the market for the underlying security to meet assignments of exercise notices.

Exercise of large long call option positions could only affect the market for the underlying security to the extent the writers of those options were uncovered and were required to buy the underlying security for delivery against call assignments. Similarly, put writers could have an effect on the market for the underlying security to the extent they would be forced to sell shares put to them in order to generate cash to fulfill their purchase obligations. To the extent both calls and puts are listed and traded on an underlying security, these theoretical impacts on the underlying

security could offset one another when roughly equal numbers of uncovered puts and calls were exercised at about the same time.

Further, it is the size of the uncovered short interest in an option class which creates the theoretical peril of a short squeeze; however, all exchanges have the ability to impose limitations on uncovered writing or on uncovering existing short positions. (See CBOE Rule 4.15.)

Continuation of position limits at present levels due to concerns about manipulative activity is not warranted. Surveillance systems are in place to detect improper activity in an underlying security without regard to the size of any related options position. And a would-be manipulator is much more likely to have his activity scrutinized if he has a large options position (one in excess of present limits) than if he has a small one.

Similarly, it does not appear that position limits can be justified as a protection against financial exposure. While larger positions will, if unhedged, entail larger financial risks, position limits seem cumbersome and ineffective mechanisms for limiting those risks. Rather than rely on position limits, it would seem much more appropriate to rely on rules which have been specifically designed to limit risk exposure. Those rules include suitability, margin, and net capital rules.

While the Exchange believes that it is appropriate to move away from existing position limits, it is reluctant to jettison them entirely and prefers a gradual approach which will give the Exchange and the Commission an opportunity to evaluate the operation of the revised rules. Thus, as a first step, it is proposed that limits in all option classes be raised to 2,000 contracts, with authority to further relax or to eliminate position limits for selected options on the same underlying security. In addition, the CBOE requests the authority to grant prior written approval to increase position limits in individual cases involving special circumstances, a power that other options exchanges already have and a power that the CBOE already has in connection with exercise limits.

The existing position and exercise limit rules provide that the Exchange may fix limits in option classes or series in higher or lower numbers than the number specified in the rules. In the past, the CBOE has used this authority in circumstances involving stock splits and stock dividends. In the future the Exchange intends to use this authority to conduct experiments to determine whether further expansion of the position and exercise limits is advisable. Notice and a discription of such an experiment will be given to the SEC's Department of Market Regulation at least 10 days prior to the date the experiment is scheduled to begin.

An example of such an experiment is the removal of position limits on option classes and/or series for a certain period of time in order to monitor and evaluate the resulting activity. In reviewing these experiments, some or all of the following factors in the markets for options and their underlying securities would be studied.

A. Options

1. Premium level changes;
2. Changes in total open interest;
3. Market maker and member firm ability to handle increased volume and open interest, if any;
4. Changes in spread relationships during periods of rolling up, and rolling down or rolling over positions;
5. Changes in uncovered short positions;
6. Concentration of positions;
7. Changes in market participants;
8. Changes in relationship of open interest to float, if any;

B. Underlying securities

1. Changes in volume;
2. Change in volatility;
3. Expiration periods;
4. Block transaction activity;
5. Changes in liquidity;
6. Changes in market maker and member firm volume;
7. Changes in option related activity.

Concurrently, the exchange proposes that exercise limits be raised to 2,000 contracts so that positions permissible under the revised position limit rule may be exercised and market participants are not forced to close out through transactions in the options market any positios in excess of 1,000 contracts.

The basis under the Securities Exchange Act of 1934 for the proposed rule change is section 6(b)(5) because it is no longer necessary to require position limitations in the amount of only 1,000 contracts in order to prevent fraudulent acts and practices or to protect investors and the public interest. Such prevention and protection can be accomplished with position limits of 2,000 contracts.

No comments on this proposed rule change have been solicited or received from members; it should be noted that a task force composed of members developed this proposed rule change.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before October 24, 1980, or within such longer period (i) as the Commission may designated 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 submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inpsection 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 10, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-28897 Filed 9-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17143; File No. SR-CBOE-1980-24]

Chicago Board Options Exchange, Inc.; 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 September 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

The text of the proposed amendments is as follows with italics indicating additions and brackets indicating deletions.

Reports of Uncovered Short Positions

Rule 15.3. *Upon request of the Exchange,* [E]each member shall submit to the Department of Compliance a report of the total uncovered short positions in each option contract of a class dealt in on the Exchange showing: (a) positions carried by such member for its own account and (b) positions carried by such member for the accounts of customers; provided that the members shall not report positions carried for the accounts of other members where such other members report the positions themselves. Such report [shall be made as of the 15th of each month (or more frequently if required by the Department of Compliance) and] shall be submitted not later than the second business day following the date [as of which the report] *the request* is made.

Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

This rule change provides that members are no longer required to submit monthly reports of certain uncovered short positions. Such reports must only be submitted at the request of the Exchange. The Securities and Exchange Commission, Federal Reserve and Options Clearing Corporation have no need for these monthly reports. In addition, the reports are only marginally helpful to the Exchange in its regulatory activities because of the delay in filing and processing the reports, which is usually two weeks. The Exchange uses telephone contracts with firms holding large short positions in a particular class of options when a potential for a "squeeze" in the underlying security is found.

The basis under the Securities Exchange Act of 1934 is Section 6(b)(5) because the protection of investors and the public interest no longer requires the monthly filing of reports on uncovered short option positions.

Comments were not solicited with respect to the proposed rule change.

No burden on competition will be imposed by the proposed rule change.

On or before October 24, 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 arguements concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 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 10, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

September 12, 1980.

[FR Doc. 80-28931 Filed 9-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1918]

Ohio; Declaration of Disaster Loan Area

Greene County and adjacent Counties within the State of Ohio constitute a disaster area as a result of damage caused by high winds, excessive rain and flooding which occurred on June 28, 1980 through June 29, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 10, 1980, and for economic injury until the close of business on June 11, 1981, at:

Small Business Administration, District Office, Federal Building-U.S. Court House, 85 Marconi Boulevard, Columbus, Ohio 43215

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-29024 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1900; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 56488) is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Angelina	Drought	5/17/79-7/18/80.
Andrews	Drought	9/1/79-7/21/80.
Brazos	Drought	6/1/80-7/30/80.
Burleson	Drought	5/15/80-8/6/80.
Camp	Drought	6/23/80-7/29/80.
Carson	Drought	6/1/80-8/11/80.
Carson	Hail storm	6/18/80.
Comanche	Drought	8/10/79-4/14/80.
Dawson	Drought	5/30/80-8/5/80.
Deaf Smith	Drought	11/6/79-7/28/80.
Deaf Smith	High wind	2/1/80-4/15/80.
Deaf Smith	Hail	5/1, 7, 27, 28/80, 6/5, 20/80.
Dewitt	Drought	6/1/80-7/28/80.
Dimmit	Drought	5/6/80-8/1/80.
Fannin	Drought	6/1/80-8/1/80.
Gregg	Drought	1/1/80-7/30/80.
Hardeman	Drought	6/1/80-7/30/80.
Hudspeth	Drought	6/1/80-8/8/80.
Lynn	Drought	6/10/80-8/4/80.
	Wind, hail, rain	5/14, 20, 27/80.
	Wind, sand	6/17/80.
Orange	Drought	5/15/80-7/23/80.
Panola	Drought	6/1/80-7/30/80.
Presidio	Drought	3/15/80-8/8/80.
Reeves	Drought	1/1/80-8/4/80.
Sabine	Drought	6/1/80-7/31/80.
Starr	Drought	4/1/79-7/31/80.
Trinity	Drought	6/1/80-7/21/80.
Upton	Drought	6/23/80-7/28/80.
Val Verde	Drought	6/1/80-7/28/80.
Wheeler	Drought	6/1/80-7/28/80.
Wichita	Drought	6/1/80-7/29/80.
Wilbarger	Drought	6/1/80-7/23/80.

and adjacent counties within the state of Texas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on February 12, 1981, and for economic injury until the close of business on May 12, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 5, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-29023 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1903; Amdt. No. 1]

Texas; Declaration of Disaster Loan Area

The above numbered declaration (see 45 FR 59467) is amended by adding Aransas, Brooks and Hidalgo Counties, and adjacent counties within the State of Texas, as a result of damage from Hurricane Allen which struck on or about August 10, 1980. All other information remains the same; i.e.,

applications for loans for physical damage may be filed until the close of business on October 10, 1980, and for economic injury until May 11, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 19, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-29022 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1904; Amdt. No. 1]

West Virginia; Declaration of Disaster Loan Area

The above numbered Declaration (See FR 45 58458) is amended in accordance with the President's declaration of August 15, 1980, to include Nicholas, Fayette, Hancock, Jackson, Kanawah, Marion, Marshall, Monongalia, Preston, Ohio, Putnam, Taylor, and Webster Counties and adjacent counties within the State of West Virginia. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on October 16, 1980, and for economic injury until the close of business on May 15, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: September 4, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-29021 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1917]

Wisconsin; Declaration of Disaster Loan Area

Green County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by high winds and heavy rain which occurred on August 1, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 10, 1980, and for economic injury until the close of business on June 11, 1981, at: Small Business Administration, District Office, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-29025 Filed 9-18-80; 8:45 a.m.]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1919]

Wisconsin; Declaration of Disaster Loan Area

The area of 17, 23 and 29–33 South Main Street, in the City of Hartford, Washington County, Wisconsin constitutes a disaster area because of damage resulting from a fire which occurred on July 29, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 10, 1980, and for economic injury until the close of business on June 11, 1981, at: Small Business Administration, District Office, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: September 11, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-29026 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:30 a.m. until 4:30 p.m., Monday, October 20, 1980, at the New Executive Office Building, Room 7008, 725 17th Street, N.W., Washington, D.C. 20503, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public from 3:00 to 4:00 p.m. Space, however, is limited. The remainder of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(4), in order that the Committee can discuss confidential contractual information.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Director, Office of Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6526, in writing or by telephone no later than October 3, 1980.

Dated: September 15, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-29027 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting

(Reference Federal Register No. 59468 Published 9/9/80—Correction—Addition of Geographical Area Council)

The Small Business Administration Region IV Advisory Councils, located in the geographical areas of Miami, Florida and Jacksonville, Florida will hold a joint public meeting from 8:30 a.m. to 4:30 p.m., Thursday, October 9, 1980, in the Sarasota Room, Barclay Airport Inn, 5303 W. Kennedy Boulevard, Tampa, Florida, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Bernard Layne, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Boulevard, 5th Floor, Coral Gables, Florida 33134—(305) 350–5533.

Dated: September 15, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-29069 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0147]

Bando-McGlocklin Investment Co., Inc.; Issuance of a Small Business Investment Company License

On Friday, August 15, 1980, a notice was published in the **Federal Register** (45 FR 54510) stating that an application has been filed by Bando-McGlocklin Investment Co., Inc., 13555 Bishops Court, Brookfield, Wisconsin 53005, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business August 29, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0147 to Bando-McGlocklin Investment Co., Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 11, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-29029 Filed 9-18-80; 8:45 a.m.]

BILLING CODE 8025-01-M

[License No. 05/05-5084]

Chicago Community Ventures, Inc.; Filing of an Application for Approval of a Conflict-of-Interest Transaction

Notice is hereby given that Chicago Community Ventures, Inc. (CCVI), 19 South LaSalle Street, Suite 1114, Chicago, Illinois 60603, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1980)) for an exemption from the provisions of the conflict of interest regulation.

This exemption, if granted, will permit CCVI to provide financing in the amount of $112,500 to Urban Marketing, Inc. (UMI), 725 South Wells Street, Chicago, Illinois.

Mr. Frederick C. Ford, a director of UMI, is a director of CCVI.

Pursuant to Paragraph (f) of the definition of "Associate of a Licensee" in § 107.3 of the SBA Regulations, UMI is considered to be an Associate of CCVI. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(1) of the Regulations.

Notice is hereby given that any person may, no later than October 6, 1980, submit to the Small Business Administration, in writing, relevant comments on the proposed transaction. Any such communications should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 11, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-29028 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0297]

Hampshire Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On August 24, 1979, a notice was published in the **Federal Register** (44 FR 49816) stating that Hampshire Capital Corporation, 48 Congress Street, Portsmouth, New Hampshire had filed an Application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on September 8, 1979, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0297 on September 2, 1980, to Hampshire Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: September 12, 1980.

Peter F. McNeish

Acting Associate Administrator for Investment

[FR Doc. 80-29068 Filed 9-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 6]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $60,000 has been established for the company.

Name of Company:

Oceanic Insurance and Surety Company

Business Address:

5105 Tollview Drive
Rolling Meadows, Illinois 60008

State of Incorporation:

New Mexico

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44510 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 11, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-28954 Filed 9-18-80; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

United States and Australia to Resume Discussions on New Income Tax Treaty

The Treasury Department today announced that representatives of the United States and Australia will meet in Canberra in November to resume discussions on a new income tax treaty to replace the present treaty which has been in effect since 1953.

Negotiations on a new treaty began in 1970 and continued in 1971. It was not possible at that time to resolve all of the issues, and negotiations lapsed. On the basis of several informal discussions in the last few years, full agreement now appears promising.

The new treaty will be patterned after the U.S. and OECD Model Conventions of 1977. It will deal with the taxation of business income, investment income, and personal service income and with administration of the treaty.

The Treasury invites persons wishing to submit comments or suggestions on any aspect of the proposed treaty or on U.S.-Australian tax relations generally to write, by October 31, 1980, to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Room 3064, Washington, D.C. 20220.

Dated September 15, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-28981 Filed 9-19-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Veterans Administration Medical Center; Ambulatory Care Addition; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of an ambulatory Care Addition at the Veterans Administration Medical Center (VAMC) Omaha, Nebraska.

The Ambulatory Care Addition project proposes the construction of a two level (basement and first floor) structural addition involving approximately 71,000 gross square feet. The addition will be constructed on the north (front) side of the west end of building no. 1. This project also includes the interior renovation of approximately 20,000 gross square feet of existing space on the first floor of building no. 1.

The mitigation of the project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise abatement measures; construction traffic controls; and air quality controls. Short term impacts of dust and fumes associated with the construction of the project will be minimized.

Findings conclude the proposed actions will not cause a significant effect on the physical and human environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P. E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: September 11, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80–28946 Filed 9–18–80; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Medical Center; 120-Bed Nursing Home Care Unit; Finding of No. Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a new 120-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC), Ann Arbor, Michigan.

The project proposes construction of a 120-Bed NHCU with a connecting bridge to the southeast corner of building no. 1 (main hospital). The nursing home will be a two-story structure of approximately 31,793 net square feet. The project will also include any changes in onsite traffic patterns as are necessitated by the new construction.

Development of the project will have minimal impacts on the human and natural environment. There will be some temporary noise, dust, fumes, and visual impacts during construction. Parking and vehicle circulation at the station will be altered.

Mitigation of project impacts include site grading, use of piles and retaining walls, soil erosion and sedimentation control, onsite noise abatement measures and control of construction dust and fumes. Alternations to the main entrance drive and construction of a new service drive will be included in the project.

Findings conclude that the proposed action will not cause significant effect on the physical and human environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 1027A, Veterans Adminstration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental assessment may be addressed to the above office.

Dated: September 11, 1980.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 80–28947 Filed 9–18–80; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 184
Friday, September 19, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 60537, September 12, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 17, 1980.

CHANGE IN MEETING: The following item has been added:

Item Number, Docket Number, and Company

CAP-5: Project 2832, New York Irrigation District, Nampa-Meridian Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District and Big Bend Irrigation District.

Kenneth F. Plumb,

Secretary.

[S-1734-80 Filed 9-17-80; 11:24 am]

BILLING CODE 6450-85-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of Meeting.

September 17, 1980.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., September 24, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

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—463d Meeting, September 24, 1980, Regulator Meeting (10 a.m.)

CAP-1. Project No. 3177, Sacramento Municipal Utility District.
CAP-2. Docket Nos. ER78-337, ER78-338 (phase II) and ER77-464, Public Service Co. of New Mexico.
CAP-3. Docket No. ER80-112, Upper Peninsula Power Co.
CAP-4. Docket No. ER80-65, Southern Co. Services, Inc.
CAP-5. Docket No. EL80-32, City of Cuba City, Wisconsin V. Wisconsin Power & Light Co.
CAP-6. Docket No. EL78-26, Anza Electric Cooperative, Inc.
CAP-7. Docket No. ES80-66, Gulf States Utilities Co.
CAP-8. Docket No. ES80-70, El Paso Electric Co.

Miscellaneous Agenda—463d Meeting, September 24, 1980, Regular Meeting

CAM-1. Docket No. RM80-8, Bona Fide offers; right of first refusal.
CAM-2. Docket No. GP80- , State of Kansas, section 108 NGPA determination, Braden-Deem, Inc., Robbins Unit No. 1, State Docket No. NGPA-K-78-0409, JD79-14135.
CAM-3. Docket No. RA80-26, Kansas-Nebraska Natural Gas Co., Inc.

Gas Agenda—463d Meeting, September 24, 1980, Regular Meeting

CAG-1. Docket No. TA81-1-17, Texas Eastern Transmission Corp.
CAG-2. Docket No. TA81-1-31 (PGA81-1a, PGA81-1, IPR81-1 and LFUT81-1), Arkansas Louisiana Gas Co.
CAG-3. Docket No. TA81-1-32 (PGA81-1 and IPR81-1), Colorado Interstate Gas Co.
CAG-4. Docket No. TA81-1-33 (PGA81-1, IPR81-1, AP81-1, TT81-1 and LFUT81-1), El Paso Natural Gas Co.
CAG-5. Docket No. TA81-1-35 (PGA81-1), Peoples Natural Gas Co.
CAG-6. Docket Nos. RP80-134 and RP79-10, Great Lakes Gas Transmission Co.
CAG-7. Docket No. RP80-77, United Gas Pipe Line Co.
CAG-8. Docket No. RP78-68, United Gas Pipe Line Co.
CAG-9. Docket No. RP80-11, Natural Gas Pipeline Co. of America.
CAG-10. Docket No. RP80-75, Southern Natural Gas Co.
CAG-11. Docket No. RP73-113, RP75-13, RP75-113, RP76-137, RP77-62, RP80-97 and RP74-43, Tennessee Gas Pipeline Co.
CAG-12. Docket No. CP80-236, Transcontinental Gas Pipe Line Corp.
CAG-13. Docket No. CP79-70, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Docket No. CP80-217, Transcontinental Gas Pipe Line Corp.; Docket No. CP80-218, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.
CAG-14. Docket No. CP79-150, Northwest Pipeline Corp.
CAG-15. Docket No. CP79-444, Tennessee Gas Pipeline Co. and Columbia Gas Transmission Co.
CAG-16. Docket No. CP80-428, Shenandoah Gas Co.
CAG-17. Docket No. CP80-376, Columbia Gas Transmission Corp.
CAG-18. Docket No. CP79-269, Columbia Gulf Transmission Co. and Northern Natural Gas Co., Division of Internorth, Inc.
CAG-19. Docket No. CP80-358, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.
CAG-20. Docket No. CP80-404, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.

Power Agenda—463d Meeting, September 24, 1980, Regular Meeting

I. Licensed Project Matters

P-1. Docket No. EL79-17, Swan Lumber Co.

II. Electric Rate Matters

ER-1. Docket No. ER80-574, Nantahala Power & Light Co.
ER-2. Docket No. ER80-567, Wisconsin Electric Power Co.
ER-3. Docket No. ER78-517, Connecticut Light & Power Co.
ER-4. Docket No. ER78-19, et al. (phase II), Flordia Power & Light Co.

Miscellaneous Agenda—463d Meeting, September 24, 1980, Regular Meeting

M-1. Docket No. RM79-54 Small Power production and cogeneration facilities—qualifying status.
M-2. Reserved.
M-3. Reserved.
M-4. Docket No. RM80-50, High-cost natural gas: Production enhancement procedures.
M-5. Docket No. RM80-33, final rules for part 270, subpart B, sections 270.201, 270.202 and 270.204.
M-6. Docket No. RM80-6, final rule governing pricing of pipeline production under the Natural Gas Act; Docket No. RM80-7, final rule governing the maximum lawful price for pipeline, distributor or affiliate production.
M-7. Docket No. RM80-75, interpretive rule amending § 282.202(a)(1) of the Commission's regulations under the Natural Gas Policy Act of 1978.
M-8. Docket No. RM79-34, transportation certificates for natural gas for the displacement of fuel oil.
M-9. Docket No. GP80- , USGS New Mexico section 108 NGPA determination; DEPCO, Inc., Hancock Well No. 6; USGS Docket No. NM 27320-79, FERC No. JD80-415.
M-10. Docket No. RA80-93, Petroleum Delivery Service, Inc.

Gas Agenda—463rd Meeting, September 24, 1980, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. TA80–2–31 (PGA80–2), Arkansas Lousisana Gas Co.
RP–2. Docket No. RP78–20, Columbia Gas Transmission Corp.
RP–3. Docket No. RP80–108, Gas Research Institute.

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. CP74–94 (phase I and phase II), United Gas Pipe line Co. v. Billy J. McCombs, R. James Stillings, d.b.a. Gatill 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.
CP–2. Docket No. CP75–228, Transcontinental Gas Pipe Line Corp.
CP–3. Docket Nos. CP78–123, et al., Northwest Alaskan Pipeline Co.; Docket No. CP78–124, Northern Border Pipeline Co.; Docket No. CP79–60, Pacific Gas Transmission Co.

Kenneth F. Plumb,

Secretary.

[S–1738–80 Filed 9–17–80; 3:35 pm]

BILLING CODE 6450–85–M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., September 18, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Standards of approval for section 15 agreements.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523–5725.

[S–1735–80 Filed 9–17–80; 12:31 pm]

BILLING CODE 6730–01–M

4

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Wednesday, September 24, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Proposed guidelines for determination of what constitutes a banker's bank under provisions of the Monetary Control Act.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 17, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–1733–80 Filed 9–17–80; 9:47 am]

BILLING CODE 6210–01–M

5

NUCLEAR REGULATORY COMMISSION.

DATE: Friday, September 19, 1980 (additional item).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Noon:

Affirmation Session (approx 10 minutes, public meeting) (additional item).

g. Amendments of Part 20 on Disposal of Certain H–3 & C–14 Wastes.

The Morning and afternoon meetings previously announced remain as scheduled.

ADDITIONAL INFORMATION: By vote of 3–0 (Commissioner Gilinsky not present) on September 11, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the affirmation of Delegation of Commission Review Authority in LaCrosse, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULED UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverifty the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

September 12, 1980.

[S–1736–80 Filed 9–17–80; 3:30 pm]

BILLING CODE 7590–01–M

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 61078, SEPTEMBER 15, 1980.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 11, 1980.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Thursday, September 18, 1980, following the 10:00 a.m. open meeting:

Formal order of investigation.
Consideration of *amicus* participation.
Freedom of Information Act appeal.

Commissioners Loomis, Evans, and Friedman determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changed in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

September 17, 1980.

[S–1737–80 Filed 9–17–80; 3:34 pm]

BILLING CODE 8010–01–M

federal register

Friday
September 19, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, 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.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Iowa:	
IA80–4041	Aug. 1, 1980.
IA80–4042	Aug. 1, 1980.
IA80–4043	Aug. 8, 1980.
IA80–4044	Aug. 8, 1980.
IA80–4045	Aug. 8, 1980.
IA80–4046	Aug. 8, 1980.
IA80–4047	Aug. 22, 1980.
IA80–4048	Aug. 29, 1980.
IA80–4050	Aug. 8, 1980.
Kansas:	
KA80–4054	July 18, 1980.
KA80–4055	July 18, 1980.
KA80–4056	July 18, 1980.
Kentucky:	
KY80–1090	Aug. 22, 1980.
Minnesota:	
MN80–2036	June 27, 1980.
New Mexico:	
NM79–4104	Nov. 2, 1979.
New York:	
NY79–3030	Aug. 31, 1979.
NY79–3036	Dec. 21, 1979.
NY80–3009	Feb. 29, 1980.
Ohio:	
OH80–2028	Aug. 1, 1980.
OH80–2044	July 7, 1980.
OH80–2048	July 11, 1980.
OH80–2052	July 7, 1980.
Pennsylvania:	
PA78–3054	Aug. 11, 1978.
Texas:	
TX79–4035	Sept. 28, 1979.
TX79–4041	Sept. 28, 1979.
TX80–4001	Jan. 4, 1980.
TX80–4004	Jan. 4, 1980.
TX80–4006	Jan. 4, 1980.
TX80–4028	Apr. 25, 1980.
TX80–4031	June 6, 1980.
TX80–4032	June 6, 1980.
TX80–4033	May 16, 1980.
TX80–4036	June 20, 1980.
TX80–4037	May 16, 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.

California:
CA80-5131 (CA80-5117) ..... May 23, 1980.
Indiana:
IN77-2010 (IN80-2085) ..... Feb. 11, 1977.
IN77-2007 (IN80-2085) ..... Feb. 11, 1977.
IN77-2098 (IN80-2085) ..... May 27, 1977.
Iowa:
IA78-4108 (IA80-4049) ..... Nov. 24, 1978.
Kansas:
KS79-4099 (KS80-4071) ..... Dec. 14, 1979.
Mississippi:
MS76-1074 (MS80-1104) ..... July 16, 1976.
Missouri:
MO79-4099 (MO80-4071) ..... Dec. 14, 1979.
New York:
NY79-3011 (NY80-3057) ..... May 18, 1979.
Utah:
UT79-5135 (UT80-5128) ..... Nov. 2, 1979.
Wisconsin:
WI78-2149 (WI80-2083) ..... Nov. 13, 1978.
Wyoming:
WY80-5119 (WY80-5129) ..... June 13, 1980.

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determinations:

IN77-2097—Madison County, Indiana, dated May 27, 1977 in 42 FR 27553—Residential Construction.

MN77-2065—Crow Wing County, Minnesota, dated April 22, 1977 in 42 FR 21026—Heavy and Highway Construction.

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

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA80-4041-Mod. #1 (45 FR 51408-August 1, 1980) Building Black Hawk Co., Ia.					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Elevator Constructors	13.10	1.195	.95	a	.035
Elevator Constructors' Helpers	70%JR	1.195	.95	a	.035
Ironworkers	13.50	.58	.75		.06
Laborers					
Group 1	9.52	.65	.45		.05
Group 2	9.67	.65	.45		.05
Group 3	9.87	.65	.45		.05
Decision #IA80-4042-Mod. #1 (45 FR 51409-August 1, 1980) Building Cerro Gordo Co., Ia.					
CHANGE:					
Boilermakers	13.87	1.375	1.10		.05
Bricklayers	11.87		.95		.02
Carpenters:					
Carpenters	10.91	.65	.50		
Millwrights; Piledrivermen	11.16	.65	.50		
Sheet Metal Workers	12.43	1.00	.72		.14
Soft Floor Layers	10.91	.65	.50		
Decision #IA80-4043-Mod. #1 (45 FR 53042-August 8,1980) Building Clinton Co., Iowa					
CHANGE:					
Boilermakers	13.87	1.375	1.10		.05
Carpenters:					
Carpenters	11.88	.65	1.00		.06
Piledrivermen	12.38	.65	1.00		.06
Cement Masons	10.75		.75		
Plumbers & Steamfitters	13.55	.71	1.14		.15
Roofers	14.30	.70	.80		

MODIFICATION PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA80-4044-Mod. #1 (45 FR 53044-August 8, 1980) Building Des Moines Co., Ia.					
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Decision #IA80-4045-Mod. #1 (45 FR 53046-August 8, 1980) Building Dubuque Co., Iowa					
CHANGE:					
Boilermakers	13.87	1.375	1.10		.05
Bricklayers & Stonemasons	10.84		.95		.02
Electricians	13.55	.75	3% +.50		3/4%
Elevator Constructors	13.10	1.195	.95	a	.035
Elevator Constructors' Helpers	70%JR	1.195	.95	a	.035
Ironworkers:					
Southeast portion	13.87	.75	.375		.07
Remainder of County	13.50	.58	.75		.06
Marble Setters	10.59		.95		.02
Terrazzo Workers	10.59		.95		.02
Tile Setters	10.59		.95		.02
Decision #IA80-4046-Mod. #2 (45 FR 53047-August 8,1980) Building Johnson Co., Iowa					
CHANGE:					
Boilermakers	13.87	1.375	1.10		.05
Elevator Constructors	13.10	1.195	.95	a	.035
Elevator Constructors' Helpers	70%JR	1.195	.95	a	.035
Ironworkers	13.50	.58	.75		.06
Painters:					
Brush & rollers	12.82				.03
Paperhangers	13.07				.03
Sandblasting	13.82				.03
Spray	13.47				.03
Plasterers	13.77				
Plumbers & Steamfitters	14.35	.60	.70		.13
Tile Setters	12.98		.55		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA80-4047-Mod. #1 (45 FR 56273-August 22,1980) Building Linn Co., Iowa					
CHANGE:					
Elevator Constructors	$13.10	1.195	.95	a	.035
Elevator Constructors' Helpers	70%JR	1.195	.95	a	.035
Painters:					
Brush & rollers	12.82				.03
Paperhangers	13.07				.03
Sandblasting	13.82				.03
Spraying	13.47				.03
Decision #IA80-4048-Mod. #1 (45 FR 57917-August 29,1980) Building Polk Co., Iowa					
CHANGE:					
Bricklayers & Stonemasons	12.76	.90	1.25		.02
Marble Setters	14.20				
Sheet Metal Workers	13.21	1.00	1.20		.14
Terrazzo Workers	14.20				
Tile Setters	14.20				
Decision #IA80-4050-Mod. #1 (45 FR 53049-August 8, 1980) Building Scott Co., Iowa					
CHANGE:					
Boilermakers	13.87	1.375	1.10		.05
Bricklayers & Stonemasons	13.56	.65	1.30		.06
Carpenters:	13.31	.65	1.15		.08
Elevator Constructors	13.64	1.195	.95	a	.035
Painters:					
Brush, roller, sign	12.37	.60	1.25		.22
Spray, sandblasting, tapers, struc. steel	12.87	.60	1.25		.22
Piledrivermen	13.81	.65	1.15		.08
Plasterers	15.40				
Plumbers & Steamfitters	13.55	.71	1.14		.15
Roofers	14.30	.70	.80		
Soft Floor Layers	13.31	.65	1.15		.08

Decision No. KS80-4054, Mod. #2 (45 FR 48409, July 18, 1980) Shawneee County, KANSAS Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Electricians	$14.50	.75	3%+.70		.10
Cable Splicers	15.95	.75	3%+.70		.10
Plumbers: pipefitters	13.93	.80	1.000		.04
Sheet metal workers	11.91	3%+.75	1.50		.07
POWER EQUIPMENT OPERATORS Building Construction					
Master Mechanic	14.45	.75	1.00		.10
Cranes with lifting ring	13.45	.75	1.00		.10
Cranes and shovels - 100 ft. of boom or over including jib or 30 tons or over or 2 yds. capacity, three (3) drum hoist	12.70	.75	1.00		.10
Cranes and shovels - booms over 200 ft. and over four (4) drum hoist, Frankie-type pile driving machines and tower cranes and derricks	12.95	.75	1.00		.10
Group I	12.45	.75	1.00		.10
Group II	12.05	.75	1.00		.10
Group III					
Class A	10.25	.75	1.00		.10
Class B	10.50	.75	1.00		.10
Group IV					
Class A	9.70	.75	1.00		.10
Class B	9.95	.75	1.00		.10
POWER EQUIPMENT OPERATORS Site Preparation and Grading					
Group 1	$10.70	.75	1.00		.10
Group 2	10.45	.75	1.00		.10
Group 3	10.20	.75	1.00		.10
Group 4	9.85	.75	1.00		.10
Group 5	9.95	.75	1.00		.10
Group 6	10.95	.75	1.00		.10

MODIFICATION PAGE 5

DECISION KS80-4055 MOD. #2
(45 FR 48411, July 18, 1980)
Shawnee County, KANSAS
Residential Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters	$ 7.92	.60			.03
Plumbers, pipefitters	13.93	.80	1.00		.04
Sheet metal workers	11.91	.75+3%	1.89		.07
POWER EQUIPMENT OPERATORS:					
Building Construction					
Master Mechanic	14.45	.75	1.00		.10
Cranes with lifting ring	13.45	.75	1.00		.10
Cranes and shovels-100 ft. of boom or over including jib or 30 tons or over or 2yds. capacity, there (3) drum hoist	12.70	.75	1.00		.10
Cranes and shovels - booms over 200 ft. and over four (4) drum hoist, Frankie-type piledriving machines and tower cranes and derricks	12.95	.75	1.00		.10
Group I	12.45	.75	1.00		.10
Group II	12.05	.75	1.00		.10
Group III					
Class A	10.25	.75	1.00		.10
Class B	10.50	.75	1.00		.10
Group IV					
Class A	9.70	.75	1.00		.10
Class B	9.95	.75	1.00		.10
POWER EQUIPMENT OPERATORS					
Site Preparation & Grading					
Group 1	$10.70	.75	1.00		.10
Group 2	10.45	.75	1.00		.10
Group 3	10.20	.75	1.00		.10
Group 4	9.85	.75	1.00		.10
Group 5	9.95	.75	1.00		.10
Group 6	10.95	.75	1.00		.10

MODIFICATION PAGE 6

DECISION KS80-4056, Mod. #1
(45 FR 48414, July 18, 1980)
Sedgwick County, Kansas
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$13.87	1.375	1.10		.05
Power Equipment Operators					
Building Construction					
Master Mechanic	13.95	.75	1.00		.10
Cranes with lifting ring	12.95	.75	1.00		.10
Cranes with Shovels- 100 ft. of boom or over including jib or over 30 tons or over or 2 yds. capacity, three (3) drum hoist	12.20	.75	1.00		.10
Cranes with shovels- 200 ft. or over four (4) drum hoist, Frankie type pile driving machines and tower cranes and trucks	12.45	.75	1.00		.10
Group I	11.95	.75	1.00		.10
Group II	11.55	.75	1.00		.10
Group III					
Class A	9.90	.75	1.00		.10
Class B	10.15	.75	1.00		.10
Group IV					
Class A	9.35	.75	1.00		.10
Class B	9.60	.75	1.00		.10
POWER EQUIPMENT OPERATORS					
Site Preparation and Grading					
Group 1	$10.70	.75	1.00		.10
Group 2	10.45	.75	1.00		.10
Group 3	10.20	.75	1.00		.10
Group 4	9.85	.75	1.00		.10
Group 5	9.95	.75	1.00		.10
Group 6	10.95	.75	1.00		.10

Decision #KY80-1090-Mod. #1 (45FR-56280-56283-August 22, 1980) Hardin, Jefferson and Meade counties, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS	11.60	.70	.65		.05
LATHERS	11.60	.70	.6		.05
LINE CONSTRUCTION:					
Linemen, line truck operators & hole diggers	15.10	.75	3%+1.25		½ of 1%
Groundmen	9.36	.75	3%+1.25		½ of 1%
SOFT FLOOR LAYERS	11.60	.70	.65		.05
POWER EQUIPMENT OPERATORS					
CLASS A	12.60	.50	.80		.05
CLASS B	9.86	.50	.80		.05
CLASS C	9.09	.50	.80		.05
LABORERS					
GROUP 1	8.35	.40	.70		
GROUP 2	9.05	.40	.70		
GROUP 3	9.25	.40	.70		
GROUP 4	9.40	.40	.70		
GROUP 5	9.55	.40	.70		
GROUP 6	10.25	.40	.70		

Decision No. KY80-1090(Cont'd)

LABORERS CLASSIFICATIONS

GROUP I

Flagman, Traffic

GROUP II

Laborers, General (tool room checkers when required; concrete forms stripping and wrecking in accordance with the October 3, 1949 Memorandum of Understanding between the carpenters and Laborers; Carpenter Tenders; Cement Finisher Tenders; Placing of concrete; wrecking on building by laborers; hand digging and hand backfilling of ditches where the signaroty Employer controls the work assignments; hand clearing or rights of way and building sites; curing of concrete and application of hardener; handling of chemically treated lumber; installing of wood sheeting and shoring; signal Laborers concrete bucket and masonry work; cleaning and moving of general purpose materials in accordance with the October 3, 1949 Memorandum of Understnding between the Carpenters and Laborers; and general clean-up of all scrap and debris).

Mobile Sweeper

GROUP III

Power Driven Georgia Buggy, Chain Saw, Vibrator Operator, Mesh Handler, Power Tools, (Air Diesel, Electric, Gasoline) Wagon Drill, Pipe Layer, Wall Man, Treatment of Exposed Concrete (Chip, Bush Hammer, and Rub) Concrete Saw, Gasoline Tamper Machine, Walk Behind Trenching Machine, Burner Man, Joint Maker, Asphalt Raker

GROUP IV

Air Track Driller, Mason Tender, Side Rail Setter (metal), Stackman, Fork Lift) Operators-Masonry and Plastering Contractors Only

GROUP V

Powderman, Introflax Burning Rod, Gunnite Nozzle Man Operator, Sewer, Tunnel Laborers (Free Air), Sand Hog or Mucker (Free Air)

GROUP VI

Holeman Drilled Piers, Augured Caissons, Sand Miner (Tunnel Free Air), Caisson Workers

MODIFICATION PAGE 9

DECISION NO. MN80-2036 - MOD. #1 (45 FR 43581 - June 27, 1980)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Aitkin, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Itasca, Kanabec, Koochiching, Lake, LeSueur, Mille Lacs, Morrison, Mower, Nichollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona, Wright Counties, Minnesota					
OMIT:					
The Following Counties: Aitkin, Itasca, Kanabec, Koochiching, Mille Lacs, and Morrison Counties					
Omit From Class 1 of All Laborers Schedules: Classifications of Landscape Gardner, Sodlayer, and Nurseryman.					
ADD:					
Laborers: Landscape and Sodlayers	$ 6.35	.50	.15		
CHANGE:					
IRONWORKERS: Counties of Carlton, Cook, Lake, St. Louis Counties	12.30	.50	.90	1.00	.02

MODIFICATION PAGE 10

DECISION NO. MN80-2036 - MOD. #1 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN:					
Counties of Carlton, Cook, Lake, that portion of Goodhue Township South of a line West from the S.W. of T-55 R-23; St. Louis Co.; that portion South of Ault, Ellsburg, Lavell, T-55 R-14, T-55 R-15, T-55 R-18, & T-55 R-21 Townships	$12.95	.45	6%	11%	.5%
Remainder of St. Louis Co.	14.38	.45	6%	11%	.5%
LABORERS: County of St. Louis North of T-55					
CLASS I	10.23	.50	.15	.25	
CLASS II	10.33	.50	.15	.25	
CLASS III	10.48	.50	.15	.25	
CLASS IV	10.53	.50	.15	.25	
CLASS V	10.58	.50	.15	.25	
CLASS VI	10.63	.50	.15	.25	
CLASS VII	10.73	.50	.15	.25	
CLASS VIII	10.83	.50	.15	.25	
LABORERS: Counties of Blue Earth, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicollet, Olmsted, Rice, Steele, Wabasha, Waseca, & Winona					
CLASS I	9.90	.50	.15		
CLASS II	10.00	.50	.15		
CLASS III	10.05	.50	.15		
CLASS IV	10.15	.50	.15		
CLASS V	10.30	.50	.15		
CLASS VI	10.35	.50	.15		
CLASS VII	10.40	.50	.15		

DECISION NO. MN80-2036 - MOD. #1 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Counties of Benton, and Stearns					
CLASS I	9.35	.55	.50	.40	
CLASS II	9.40	.55	.50	.40	
CLASS III	9.45	.55	.50	.40	
CLASS IV	9.50	.55	.50	.40	
CLASS V	9.60	.55	.50	.40	
CLASS VI	9.70	.55	.50	.40	
CLASS VII	9.75	.55	.50	.40	
CLASS VIII	9.80	.55	.50	.40	
LABORERS: Sibley County					
CLASS I	8.70	.50	.15		
CLASS II	8.80	.50	.15		
CLASS III	8.85	.50	.15		
CLASS IV	8.95	.50	.15		
CLASS V	9.05	.50	.15		
CLASS VI	9.10	.50	.15		
CLASS VII	9.15	.50	.15		
CLASS VIII	9.20	.50	.15		

DECISION NO. MN80- 2036 - MOD. #1 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Counties of Carlton, Cook, Lake, & St. Louis - South of T-55					
CLASS I	$ 9.68	.50	.45	.50	
CLASS II	9.78	.50	.45	.50	
CLASS III	9.93	.50	.45	.50	
CLASS IV	9.98	.50	.45	.50	
CLASS V	10.03	.50	.45	.50	
CLASS VI	10.08	.50	.45	.50	
CLASS VII	10.18	.50	.45	.50	
CLASS VIII	10.28	.50	.45	.50	
ADD:					
POWER EQUIPMENT OPERATORS:					
ZONE 2:					
Cass County South of the Northern Right of Way of U.S. Highway 2 and East of the Western Right of Way of U.S. Highway 371; That Part of Crow Wing Co. East of Western Right of Way of U.S. Highway 371					

MODIFICATION PAGE 13

DECISION NO. NM79-4104 - Mod. #5

44 FR 63456 - November 2, 1979
Statewide, New Mexico

CHANGE DESCTIPTION OF WORK TO READ "Street, highway, utility and light engineering construction shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athlitic fields; highway bridges, median channels and grade separations involving highways; parks; golf courses, viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling, telephone and electrical transmission lines and site preparations which are part of street, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as lift stations, inlets, manholes, sewer lagoons, septic tanks and service outlets (stub-outs), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

MODIFICATION PAGE 14

DECISION NO. NY79-3030 - Mod. #2
(44 FR 51481 August 31, 1979)
Steuben County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Edvcation and/or Appr. Tr.
Asbestos Workers	13.92	1.40	1.05		.01
Boilermakers	13.70	1.275	1.775		.03
Bricklayers, Cement Masons, Marble Masons, Plasters, Tile and Terrazzo Workers	11.65		1.00		
Cement Masons, Heavy & Highway	12.00		.50		
Electricians	13.80	1.00	3%+1.00		.05
Glaizers	9.97	.45	.65		.03
Ironworkers					
Twps. of Allantic and South Dansville:					
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors and Stone Derrickmen	13.05	1.00	1.05		.10
Sheeter	13.30	1.00	1.05		.10
Sheeter, Bucker-up	13.175	1.00	1.05		.10
Remainder of County					
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors and Stone Derrickmen	12.55	.85	1.05		.05
Sheeter	12.80	.85	1.05		.05
Sheeter, Bucker-up	12.67	.85	1.05		.05
Laborers, Building					
Common Laborers	8.32	.50	.30		
Painters					
Remainder of County					
Brush	12.205	1.375	.40		.11
Swing Stage, Sandblasting, Spray, Scaffold Work, Bosun Chair & Epoxy or Similar	12.455	1.375	.40		.11
35' from road level	13.87	1.375	.40		.11
Plumbers and Steamfitters:					
Twps. of Avaca, Canisteo, Cohocton, Dansville, Femont, West Union, Greenwood, Hartsville, Hornellville, Howard, Wheeler, Jasper, Prattsburg, Pultney, Troupsburg, Wayland, Woodhall, Cameron, Rathbone and Tuscarora	14.38	2.485	1.22		.20
Roofers	11.00	.99	1.19		

DECISION NO. NY79-3030 - (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers	12.42	3%+.60	.80		.11
Sprinkler Fitters	14.52	.85	1.20		.08
Laborers,Heavy & Highway Contruction					
Class A	9.79	.65	.50	a	
Class B	9.99	.65	.50	a	
Class C	10.19	.65	.50	a	
Class D	10.39	.65	.50	a	
LINE CONSTRUCTION:					
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class					
Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	

DECISION NO. NY79-3030 -(Cont'd)

LINE CONSTRUCTION (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	10.275	1.40	3%+1.00	a	
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	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

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. NY79-3036 - Mod #3
(44 FR 56402 - December 21, 1979)
Oneida County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	13.83	.90	.93		.06
Boilermakers	13.50	1.175	10%		.03
Bricklayers, Cement Masons, Pointers, Caulkers, Cleaners, Plasterers and Stonemasons (Building)	11.85	.70	1.04		
Cement Masons (Heavy & Highway)	11.00	.60	.90		
Carpenters (Building)					
Carpenters & Soft Floor Layers	10.97	.70	.65	a	.03
Piledrivermen & Millwrights	11.22	.70	.65	a	.03
Electricians					
Verona and Vienna Twps. West of State Highway 13:					
Electricians	14.00	.87	3%+1.10		.07
Cable Splicers	15.00	.87	3%+1.10		.07
Remainder of County:					
Electricians	13.05	.80	3%+.60		.07
Cable Splicers	14.25	.80	3%+.60		.07
Glaziers:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville and Steuben	11.50	.80			.01
Ironworkers:					
Structural, Ornamental, Rodman, Machinery Mover & Rigger, Fence Erector, Reinforcing, Stone Derrickman & Welders	12.17	1.11	1.02		.04
Sheeter	12.42	1.11	1.02		.04
Sheeter Bucker-up	12.295	1.11	1.02		.04
Laborers, Building					
Twps. of Forestport, Remsen, Trention, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Paris, Sangerfield, Bridgewater and the city of Utica					
Laborers	9.02	.90	.95	d	
Pipelayers, Mortar Mixers (hand or machine), Motor buggy Op. (walk behind), power high lift	9.17	.90	.95	d	
Blasters, Form Setters and Motor Buggy Rider Type	9.52	.90	.95	d	
Wagon Drill Operator	9.42	.90	.95	d	

DECISION NO. NY79-3036 - (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building					
Remainder of County					
Laborers, Common	9.905	.65	.75	e	
All rock drilling equipment Operators	10.350	.65	.75	e	
Blasters	10.505	.65	.75	e	
Vibrator Op., Chain Saw Op., Air or Electric Tool Op., Gas Buggy Op., Acetylene Torch Op. on demolition work, Pipelayers, Scaffold Builders, Mortar Mixer, Pavement Breaker Op.	10.105	.65	.75	e	
Marble Setters, Terrazzo Workers and Tile Setters	10.44	.70	1.04		
Painters					
Remainder of County					
Brush	11.31				
Spary	11.91				
Sandblasting	13.44				
Paper and Vinyl Hangers, Epoxy, Steel, Taping, Swing Stage, Bosun Chair and Monkey Suit	11.56				
Roofers	13.15	1.00	2.00		
Sprinkler Fitters	14.52	.85	1.20		.08
LINE CONSTRUCTION:					
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	

DECISION NO. NY79-3036 - Cont'd)

LINE CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equ pment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	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					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechinic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	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. NY80-3009 - Mod. #2
(45 FR 13604 - February 29, 1980)
Cattaraugus, Chautaugua, & Erie Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.85	1.32	1.40		.07
Boilermakers	13.70	1.275	1.775		.03
Bricklayers, Area 1:					
Bricklayers, Stone Masons, Pointers, Caulkers, & Cleaners	13.83	.80	1.90		
Marble Masons	13.545	.80	1.90		
Terrazzo Workers & Tile Setters	13.45	.80	1.90		
Bricklayers, Area 2:					
Bricklayers, Cement Masons (Building), Plasterers, Stone Masons, Tile and Terrazzo Workers	12.00	.80	1.30		.08
Carpenters, Areas 1 and 4:					
Carpenters, Millwrights, Piledrivermen Dockbuilders and Soft Floor Layers	12.73	1.80	1.85		
Carpenters, Area 2:					
Carpenters, Building	11.20	.80	1.35	b	.02
Millwrights & Piledrivermen	11.45	.80	1.35	b	.02
Carpenters, Heavy & Highway	10.53	.80	1.35	b	.025
Carpenters, Area 3:					
Carpenters, Building	10.80	1.69	1.65		.025
Millwrights	10.90	1.69	1.65		.025
Carpenters & Piledrivers (Heavy & Highway)	9.34	1.69	1.65		.025
Cement Masons, Erie County:					
Cement Masons	14.18		2.00		
Machine Operator	14.35		2.00		
Swing Scaffold	14.45		2.00		
Machine Operator on Swing Scaffold	14.60		2.00		
Cement Masons, Heavy & Highway Cattaragus (excluding the twp. of Perrysburg and the Village of Gonawanda), Chautaugua	10.32	.80	1.30		.08
Electricians Chautaugua, Cattaraugus (twp. of Allegany, Carrolton, Cold Spring, Conewango, Dayton, Elko, Great Valley, Hinsdale, Humphrey, Iskhua, Leon, Little Valley, Napoli, Olean, Portville, Red House, Randolph, Salamanca, South Valley)	13.17	.95	3%+1.20		½%

MODIFICATION PAGE 21

DECISION NO. NY80-3009 -(Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians					
Erie, Cattaraugus (Remainder of County)					
Electricians	14.54	1.10	3%+2.10		.05
Cable Splicers	15.04	1.10	3%+2.10		.05
Glaziers	12.04	1.70	1.00		.30
Ironworkers					
Chautaugua (Twps. of Stockton, Gerry, Poland, Carrol, Busti, Ellicott, Harmony, Ellery, Clymer, Sherman, Chautaugua, French Creek, Mina, Ripley, Westfield, North Harmony, Kiantone and that portion of Portland west of a line from the southeast township corner extending through the village of Brockton to Lake Erie					
Structural, Ornamental, Reinforcing, Machinery Movers, Rodmen, Riggers, Fence Erectors, and Stone Derrickmen	15.40	1.86	1.01		.15
Sheeter	16.15	1.86	1.01		.15
Erie (Northern half of Grand Island)					
Structural, Ornamental, Reinforcing, Fence Erectors, Rodmen, Machinery Movers, Riggers, Stone Derrickmen	12.96	1.07	1.02		
Sheeter	14.27	1.07	1.02		
Marble, Tile & Terrazzo Workers' Finishers	11.66	1.65	.40		
Painters:					
Cattaraugus (Twps. of Perrysburg, Persia, Otto, Dayton, East Otto, Ashford, Yorkshire & Machias), Chautaugua (Twps. of Dunkirk, Portland, Pomfret, Sheridan, Arkwright, Hanover, and Villanova), and Erie (excluding north of White Haven Rd. on Grand Island)					
Basic Rate	12.205	1.375	.40		.11

MODIFICATION PAGE 22

DECISION NO. NY80-3009 - (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters, Cont'd:					
Epoxy or Similar, Spray, Sandblasting, Bosun Chair, Swing and Scaffold, Taping, Hangers	12.455	1.375	.40		.11
Bridges 35' in depth or 35' from road level	13.87	1.375	.40		.11
Skeleton Steel, Radio-TV Towers, Flagpoles, Water Towers, Stacks	12.705	1.375	.40		.11
Erie County (North of White Haven Road on Grand Island):					
Brush	11.09	1.27	1.65		.01
Spray, Steel, Steeplejacks, Stage Chair, & Sandblasting	11.84	1.27	1.65		.01
Bridges, Crossing the Niagara River	12.755	1.27	1.65		.01
Plumbers					
Erie, Cattaraugus (Twps. of Perrysburg, Dayton, Persia, Otto, Leon, & Albion), Chautaugua (twps. of Hanover, Sheridan, Dunkirk, Pomfret, Arkwright, Villanova, Portland, Stockton, Charlotte, Ripley, Westfield, and Cherry Creek)	13.81	1.03	1.63		.08
Plumbers & Steamfitters					
Cattaragus (Remainder of County)	13.30	.60	1.29	.25	
Chautaugua (Remainder of County)	13.15	.77	.55	.289	
Roofers					
Cattaraugus & Chautaugua	10.95	.65	.45		.15
Erie					
Composition, Damp Waterproofers, Sprayers, Asphalt Mastic, Wood block Floor Workers, Steep Roofers and Siders	12.86	.99	1.50		.02
Slate, Precast Tile Roofers, Tile Asbestos	13.01	.99	1.50		.02
Sprinkler Fitters					
Cattaraugus & Chautaugua	14.52	.85	1.20		.08

MODIFICATION PAGE 23

DECISION NO. NY80-3009 -(Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Building					
Cattaraugus (excluding Twp. of Perrysburg and the village of Gonawanda) and Chautaugua					
Common Laborers & Flagmen	9.20	.80	1.00	b	
Blasterers, Nozzlemen (gunite, seeding, sandblasting), Curb and Form Setters (steel stone and granite)	9.45	.80	1.00	b	
Work 40' and over	9.35	.80	1.00	b	
LINE CONSTRUCTION:					
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	

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DECISION NO. NY80-3009 (Cont'd):

LINE CONSTRUCTION (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	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 ar the day after a holiday

DECISION NO. OH80-2028 - Mod. #2
(45 FR 51416 - August 1, 1980)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Lake Co.:					
Commercial Construction	$15.23	.85	3%+.70		.2%
Lorain (Except Columbia Twp.):					
Commercial Construction	14.95	.75	3%+1.00		.1%
Glaziers:					
Ashtabula, Cuyahoga, Lake & Lorain Cos.	15.53	.60	1.25		.01
Ironworkers:					
Ashtabula (NE ¼ of Co.) Co.	14.00	1.86	1.01		.15
Line Construction:					
Lorain (Rem. of Co.) Co.:					
Cable Splicers; Equipment Ops. & Linemen	14.95	.75	3%+1.00		½%
Groundmen	9.72	.75	3%+1.00		½%
Marble Setters; Terrazzo Workers; & Tile Setters:					
Portage & Summit Cos.	13.47	.91	.70		
Marble Setters' Finishers:					
Portage & Summit Cos.	12.97	.91	.70		
Laborers:					
Stark Co.:					
Building & Construction; Tool Cribman; Carpenters' Tenders; Finishers Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	10.86	.70	.90		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on Demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers; Mortar Mixers; Form Setter; Mason Tenders; Hod Carrier; Laser Beam Setup Men	11.06	.70	.90		.10
Gunnite Operator	11.46	.70	.90		.10

DECISION NO. OH80-2028 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
Group A	15.07	1.11	1.25		.11
Group B	14.92	1.11	1.25		.11
Group C	14.57	1.11	1.25		.11
Group D	13.79	1.11	1.25		.11
Group E	13.47	1.11	1.25		.11
Group F	11.29	1.11	1.25		.11
Portage, Stark, & Summit Cos.:					
Group A	14.79	1.11	1.25		.11
Group B	14.63	1.11	1.25		.11
Group C	14.28	1.11	1.25		.11
Group D	13.47	1.11	1.25		.11
Group E	13.14	1.11	1.25		.11
Group F	10.93	1.11	1.25		.11

DECISION NO. OH80-2044 - Mod. #2
(45 FR 45806 - July 7, 1980)
Adams, Allen, Ashland, Auglaize, Brown, Butler, Carroll, Champaign, Clark, Clermont, Clinton, Columbiana, Coshocton, Crawford, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Gallia, Geauga, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Holmes, Huron, Knox, Lawrence, Licking, Logan, Madison, Marion, Medina, Meigs, Mercer, Miami, Montgomery, Morrow, Muskingum, Ottawa, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Union, Van Wert, Warren, Wayne, Williams, Wood, & Wyandot Counties, Ohio

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:					
Brown, Butler, Clermont, Hamilton, Preble (Dixon, Israel, Lanier, Somers & Gratis Twps.) & Warren Cos.	$14.945	.80	.45		.02
Cement Masons:					
Fulton, Hancock, Henry, Putnam, & Wood (Exclu. Perry & Bloom Twps.) Cos.	13.05	.70	1.10		.02
Electricians:					
Ashland, Crawford, Huron (Twps. of Richmond, New Haven, Ripley & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt & Antrim) Cos.	13.83	.60	3%+.62		.1%
Brown, Clermont, & Hamilton Cos.:					
Up to & incl 18 mi. radius from Hamilton Co. Court House, Cincinnati	15.30	.70	3%+.80		½%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	15.60	.70	3%+.80		½%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	15.70	.70	3%+.80		½%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati	15.85	.70	3%+.80		½%
Butler, & Warren (Twps. of Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.	15.35	.55	3%+1.00		½%

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Coshocton, Knox (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College), Licking, Muskingum, Perry, & Tuscarawas (Twps. of Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks) Cos.	$13.10	.50	3%+1.02		.03
Geauga (Rem. of Co.) Co.	15.23	.85	3%+.70		.2%
Medina (Litchfield, Liverpool Twps.) Co.	14.95	.75	3%+1.00		.1%
Glaziers:					
Erie (Exclu. NW Tip of Co. to Rte. #4), Geauga, Huron (N½), & Medina Cos.	15.53	.60	1.25		.01
Lathers:					
Clermont, Hamilton, Highland (except NE Tip), & Warren (S. ½ of Co.) Cos.	13.87		1.10		.075
Marble Setters; Terrazzo Workers; & Tile Setters:					
Brown, Butler, Clermont, Hamilton, Preble (Dixon, Israel, Lanier, Somers, & Gratis Twps.) & Warren Cos.:					
Marble Setters	14.385	.80	.45		
Terrazzo Workers; Tile Setters	14.335	.80	.45		
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon), & Wayne (Twps. of Milton & Chippewa) Cos.	13.47	.91	.70		
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Adams, Brown, Butler, Clermont, Gallia, Hamilton, Highland, Lawrence, Meigs, Scioto & Warren Cos.:					
Marble Setters' Finishers	13.35				

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DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble Sanders; Polishers; Sawyers; & Waxers	$13.515				
Terrazzo Workers' Finishers & Grinders	13.35				
Terrazzo Base Grinders (While operating base grinding machine)	13.77				
Tile Setters' Finishers	13.35				
Medina (Twps. of Wadsworth, Guilford, Westfield, Lafayette & Sharon), Wayne (Twps. of Milton & Chippewa) Cos.	12.97	.91	.70		
Millwrights:					
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.	14.84	.60	1.10		.10
Painters:					
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial:					
Brush; Rollers; & Wash & Clean Surfaces	11.20	.70	.80		h
Drywall & Paperhangers	11.45	.70	.80		h
Sandblasting; Spray	11.70	.70	.80		h
New Commercial:					
Brush; Rollers; & Wash & Clean Surfaces	12.30	.70	.80		h
Drywall & Paperhangers	12.55	.70	.80		h
Sandblasting; & Spray	12.80	.70	.80		h
Pipefitters; Plumbers; & Steamfitters:					
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry, & Loudon), Coshocton, Holmes, Muskingum, & Tuscarawas Cos.	15.85	.87	.60		.08
Plasterers:					
Brown, Butler, Clermont, Hamilton, Highland & Warren Cos.	14.895		1.00		.02

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DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Soft Floor Layers:					
Defiance, Fulton, Hancock (Except city of Fostoria), Henry, Paulding, Williams, & Wood (Except city of Fostoria) Cos.	$13.18	1.06	1.25		.05
Laborers:					
Ashland, Crawford, Knox, Morrow, & Richland Cos.:					
Group A	10.76	.70	.90		.10
Group B	10.96	.70	.90		.10
Group C	11.36	.70	.90		.10
Carroll, Coshocton, Delaware, Hancock, Hardin, Holmes, Marion, Seneca, Tuscarawas, Wayne, & Wyandot Cos.:					
Group A	10.86	.70	.90		.10
Group B	11.06	.70	.90		.10
Group C	11.46	.70	.90		.10
Group A:					
Building & Construction Laborers; Carpenters' Tenders; Concrete Handler; Finisher Tenders; Guard Rail Erector; Tool Cribmen; & Utility Construction Laborer					
Group B:					
Air & Power Driven Tools; Bottom Men; Burner on Demolition; Caisson Worker; Cofferdam Worker; Creosote Workers; Form Setter; Hod Carrier; Laser Beam Setup Men; Mason Tender; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Powder Men & Dynamite Blaster; Scaffold Building; Swinging Scaffold; & Tunnel Laborers					
Group C:					
Gunnite Operator					

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Brown, Clermont, Clinton & Hamilton Cos.:					
Group 1	$12.35	.80	.80		.10
Group 2	12.45	.80	.80		.10
Group 3	12.50	.80	.80		.10
Group 4	12.55	.80	.80		.10
Group 5	12.70	.80	.80		.10
Group 6	12.85	.80	.80		.10
Group 7	13.10	.80	.80		.10
Butler & Warren Cos.:					
Common Laborers	11.64	.70	.90		.10
Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op.	11.74	.70	.90		.10
Mason Tenders; Mortar Mixers; & Scaffold Builders	11.97	.70	.90		.10
Concrete Pumps & Hose Men; Gunnite Operators; & Sandblasters	11.99	.70	.90		.10
Muskingum & Perry Cos.:					
Building & Construction Laborers; Carpenter Tenders; Planters (Landscape); Plumbers Tenders & Tree Trimmers	10.52	.70	.90		.10
Air & Machine Driven Tools Op.; Asphalt Plant Aggremeter Op.; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (Behind Mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand Spikers Op.; Jackhammer Op.; Mason Tenders; Mortar Mixers;					

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Op.; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Men; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Op.; & Yarners & Wrenchmen	$10.62	.70	.90		.10
Brick Droppers; Lock Tenders; & Powdermen or Blasters	10.77	.70	.90		.10
Line Construction:					
Ashland, Crawford, Huron (Twps. of Richmond, New Haven, Ripley & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) Cos.:					
Equipment Operators; Linemen	13.83	.60	3%+.62		½%
Line Truck Driver	8.30	.60	3%+.62		½%
Groundmen	8.99	.60	3%+.62		½%
Brown, Clermont, & Hamilton Cos.:					
Zone I:					
Linemen; Machine Ops.	15.30	.70	3%+.80		½%
Groundmen	11.475	.70	3%+.80		½%
Zone II:					
Linemen; Machine Ops.	15.60	.70	3%+.80		½%
Groundmen	11.70	.70	3%+.80		½%
Zone III:					
Linemen; Machine Ops.	15.70	.70	3%+.80		½%
Groundmen	11.775	.70	3%+.80		½%
Zone IV:					
Linemen; Machine Ops.	15.85	.70	3%+.80		½%
Groundmen	11.89	.70	3%+.80		½%

DECISION NO. OH80-2044 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler, Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
Linemen	$15.35	.55	3%+1.00		½%
Cable Splicers	15.85	.55	3%+1.00		½%
Groundmen	10.75	.55	3%+1.00		½%
Medina (Litchfield & Liverpool Twps.) Cos.:					
Cable Splicer; Equipment Op.; & Linemen	14.95	.75	3%+1.00		½%
Truck Driver (Winch) Groundman; Groundman	9.72	.75	3%+1.00		½%
Power Equipment Operators:					
Zone I:					
Group A	14.79	1.11	1.25		.11
Group B	14.63	1.11	1.25		.11
Group C	14.28	1.11	1.25		.11
Group D	13.47	1.11	1.25		.11
Group E	13.14	1.11	1.25		.11
Group F	10.93	1.11	1.25		.11
Zone II:					
Group A	14.51	1.11	1.25		.11
Group B	14.35	1.11	1.25		.11
Group C	13.99	1.11	1.25		.11
Group D	13.21	1.11	1.25		.11
Group E	12.88	1.11	1.25		.11
Group F	10.68	1.11	1.25		.11
Zone III:					
Group A	15.07	1.11	1.25		.11
Group B	14.92	1.11	1.25		.11
Group C	14.57	1.11	1.25		.11
Group D	13.79	1.11	1.25		.11
Group E	13.47	1.11	1.25		.11
Group F	11.29	1.11	1.25		.11

DECISION NO. OH80-2048 - Mod. #2
(45 FR 47045 - July 11, 1980)
Lucas County, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement Masons	$13.05	.70	1.10		.02
Soft Floor Layers:					
Commercial	13.18	1.06	1.25		.05
Residential	11.45	1.06	1.25		.05
Power Equipment Operators:					
Group A	14.79	1.11	1.25		.11
Group B	14.63	1.11	1.25		.11
Group C	14.28	1.11	1.25		.11
Group D	13.47	1.11	1.25		.11
Group E	13.14	1.11	1.25		.11
Group F	10.93	1.11	1.25		.11

DECISION NO. OH80-2052 - Mod. #2
(45 FR 45834 - July 7, 1980)
Statewide, Ohio

CHANGE:					
Bricklayers & Stonemasons:					
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Gratis, Israel, Lanier, & Somers), & Warren Cos.	14.945	.80	.45		.02
Electricians:					
Ashland, Crawford, Huron (Twps. of Greenwich, New Haven, Richmond, & Ripley), Knox (N½ incl. Clinton, Howard, Liberty, Monroe & Union Twps.), Marion, Morrow, Richland, & Wyandot (Rem. of Co.) Cos.	13.83	.60	3%+.62		.1%
Brown, Clermont & Hamilton Cos.:					
Within 18 Mi. of Hamilton Co. Court House	15.30	.70	3%+.80		½%
From 18 to 21 Mi.	15.60	.70	3%+.80		½%
From 21 to 25 Mi.	15.70	.70	3%+.80		½%
Over 25 Mi.	15.85	.70	3%+.80		½%
Butler Co. & Warren Co., excl. Clear Creek, Franklin & Wayne Twps.	15.35	.55	3%+1.00		½%

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Coshocton, Guernsey, Knox (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), Licking, Muskingum, Perry, Tuscarawas (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, & Bucks) Cos.	$13.10	.50	3%+1.02		.03
Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.) & Lake Cos.	15.13	.85	3%+.70		.2%
Lorain Co. (Rem. of Co.) and Medina Co. (Twps. of Litchfield & Liverpool)	14.95	.75	3%+1.00		.1%
Painters:					
Erie, Hancock, Huron, Sandusky, Seneca & Wyandot Cos.:					
Brush	12.30	.70	.80		50.00p/yr
Structural Steel	12.75	.70	.80		50.00p/yr
Plumbers & Steamfitters:					
Carroll (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & Loudon), Coshocton, Guernsey, Holmes, Morgan (South of State Rte #78 & from McConnelsville West on State Rte #37 to the Perry Co. line), Muskingum, Noble, & Tuscarawas Cos.	15.85	.87	.60		.08
Truck Drivers:					
Zone I:					
Class I	10.75	34.00a	30.00a	b&c	.05
Class II	10.90	34.00a	30.00a	b&c	.05
Class III	11.25	34.00a	30.00a	b&c	.05
Class IV	11.25	34.00a	30.00a	b&c	.05
Line Construction:					
Ashland, Crawford, Huron (Twps. of Richmond, New Haven, Ripley & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion,					

DECISION NO. OH80-2052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee) Cos.:					
Equipment Operators; Linemen	$13.83	.60	3%+.62		½%
Line Truck Driver	8.30	.60	3%+.62		½%
Groundmen	8.99	.60	3%+.62		½%
Brown, Clermont, & Hamilton Cos.:					
Zone I:					
Linemen; Machine Ops.	15.30	.70	3%+.80		½%
Groundmen	11.475	.70	3%+.80		½%
Zone II:					
Linemen; Machine Ops.	15.60	.70	3%+.80		½%
Groundmen	11.70	.70	3%+.80		½%
Zone III:					
Linemen; Machine Ops.	15.70	.70	3%+.80		½%
Groundmen	11.775	.70	3%+.80		½%
Zone IV:					
Linemen; Machine Ops.	15.85	.70	3%+.80		½%
Groundmen	11.89	.70	3%+.80		½%
Butler, Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
Linemen	15.35	.55	3%+1.00		½%
Cable Splicers	15.85	.55	3%+1.00		½%
Groundmen	10.75	.55	3%+1.00		½%
Lorain (Exclu. Columbia Twp.), & Medina (Litchfield & Liverpool Twps.) Cos.:					
Cable Splicers; Equipment Op.; & Linemen	14.95	.75	3%+1.00		½%
Truck Driver (winch) Groundman; Groundman	9.72	.75	3%+1.00		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA78-3054					
MOD. NO. 9					
(43 FR 35868 - August 11, 1978)					
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
CHANGE:					
Carpenters	$11.72	2.63	1.40	a	.13
ADD:					
Philadelphia only:					
Electricians	13.88	.83	3%+.83		1 3/4%
Millwrights	11.77	2.63	1.40		.13
Ironworkers:					
Structural & Ornamental	13.77	1.34	1.36		.04
Rigger, Machinery Mover	13.20	1.34	1.36		
DECISION NO. TX79-4035 -					
MOD. #6					
(44 FR 56108 - September 28 1979)					
Gregg County, Texas					
CHANGE:					
Bricklayers	$12.10		.45		.05
DECISION NO. TX79-4041 -					
MOD. #5					
(44 FR 56108 - September 28, 1979)					
Taylor County, Texas					
CHANGE:					
Electricians:					
Electricians	11.75	.60	3%		1/4%
Cable splicers	12.00	.60	3%		1/4%
Line construction:					
Lineman	11.75	.60	3%		1/4%
Cable splicers	12.00	.60	3%		1/4%
Groundman	8.81	.60	3%		1/4%
Equipment operator	9.64	.60	3%		1/4%
Flat bed truck driver	7.29	.60	3%		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4001 -					
MOD. #8					
(45 FR 1376 - January 4, 1980)					
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Sheet metal workers	$12.38	.50	.60		.12
OMIT all rates & classifications for plumbers & pipefitters					
ADD:					
Plumbers & pipefitters	11.90	.50	.65	1.06	
DECISION NO. TX80-4004 -					
MOD. #8					
(45 FR 1383 - January 4, 1980)					
Wichita County, Texas					
CHANGE:					
Plasterers	11.75				.01
Plumbers & pipefitters:					
Zone 1	12.10	.50	.85		.05
Zone 2	12.60	.50	.85		.05
DECISION NO. TX80-4006 -					
MOD. #7					
(45 FR 1388 - January 4, 1980)					
Travis County, Texas					
CHANGE:					
Marble, tile & terrazzo workers	10.00	.60			.05
Plasterers	11.74	.60	.55		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4028 - MOD. #6 (45 FR 28013 - April 25, 1980) Galveston & Harris Cos., Texas					
CHANGE: Electricians-Galveston Co.	$14.44	.75	3%+1.40		.08
DECISION NO. TX80-4031 - MOD. #4 (45 FR 38250 - June 6, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE: Building Construction: Plasterers	11.74	.60	.55		.01
DECISION NO. TX80-4032 - MOD. #4 (45 FR 38254 - June 6, 1980) Bexar County, Texas					
CHANGE: Electricians:					
Electricians	12.44	.60	5%		1%
Cable splicers	12.69	.60	5%		1%
Painters: Brush; paperhanger; taper & floater; hand roller	10.05		.30		.05
Brush on all structural steel; spray on any other surface other than steel	10.30		.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4033 - MOD. #4 (45 FR 32544 - May 16, 1980) Bowie County, Texas					
CHANGE: Line construction:					
Linemen	$13.20		3%		1/2%
Cable splicers	13.60		3%		1/2%
Hole digger op., heavy equipment ops. (or pole cat equivalent); powderman	12.01		3%		1/2%
Line truck driver (winch op.)	10.82		3%		1/2%
Jackhammerman	9.90		3%		1/2%
Groundman	8.84		3%		1/2%
Truck driver (flat bed, ton & half & under)	9.37		3%		1/2%
Plumbers & pipefitters:					
Within a 25 mile radius of Texarkana	13.93	.60	.70		.05
Outside a 25 mile radius of Texarkana	14.33	.60	.70		.05
DECISION NO. TX80-4036 - MOD. #3 (45 FR 41836 - June 20, 1980) Ector & Midland Cos., Texas					
CHANGE:					
Electricians - Zone 1	12.00	.60	3%		1/10%
Zone 2	12.70	.60	3%		1/10%
Zone 3	13.00	.60	3%		1/10%
DECISION NO. TX80-4037 - MOD. #3 (45 FR 32545- May 16, 1980 Lubbock County, Texas					
CHANGE: Sheet metal workers	12.38	.50	.60		.12

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA80-5131

DATE: Date of Publication

Supersedes Decision No. CA80-5117 dated May 23, 1980, in 45 FR 35110

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$18.74	$1.30	$1.45		.07
BOILERMAKERS	15.11	1.255	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	14.09	1.13	1.34		.12
Area 2	15.74	1.15	2.21		.10
Area 3	15.45	1.15	1.65		.07
Area 4	13.35	1.30	1.75		.05
Area 5	15.09	1.30	2.35		.10
Area 6	15.47	1.45	2.00		.05
BRICK TENDERS	11.23	1.25	2.90	.95	.12
CARPENTERS:					
Carpenters	13.67	1.63	2.21	1.00	.10
Saw Filers	13.75	1.63	2.21	1.00	.10
Table Power Saw Operators	13.77	1.63	2.21	1.00	.10
Shinglers; Piledrivermen, Bridge or Dock Caprenters; Derrick Bargemen; Rock Slinger	13.80	1.63	2.21	1.00	.10
Hardwood Floor Layers	13.87	1.63	2.21	1.00	.10
Pneumatic Nailers	13.92	1.63	2.21	1.00	.10
Millwrights	14.17	1.63	2.21	1.00	.10
CEMENT MASONS:*					
Cement Masons	13.61	1.30	1.85	1.25	.08
Cement Floating and Troweling Machine	13.86	1.30	1.85	1.25	.08
Area 1:					
Cement Masons	15.26	1.30	1.85	1.25	.08
Cement Floating and Troweling Machine Operators	15.51	1.30	1.85	1.25	.08
DIVERS:					
Diver, Wet*	32.60	1.63	2.21	1.00	.10
Diver, Stand-by*	16.30	1.63	2.21	1.00	.10
Diver, Tender*	15.30	1.63	2.21	1.00	.10
DRYWALL INSTALLERS	14.63	1.63	2.21	.95	.09
ELECTRICIANS:*					
Area 1:					
Electricians	15.98	.75	3%+1.71		.09
Cable Splicers	16.28	.75	3%+1.71		.09

*See AREA Descriptions - Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 2:					
Electricians; Technicians	$16.00	$1.10	3%+1.95		.15
Cable Splicers	17.60	1.10	3%+1.95		.15
Area 3:					
Electricians	15.67	1.15	3%+2.70		.12
Cable Splicers	13.42	1.15	3%+2.70		.12
Traffic Signal and Street Lighting:					
Electricians	13.12	1.15	3%+1.95		.12
Utility Technician No. 1	9.84	1.15	3%+1.95		.12
Utiltiy Technician No. 2	9.18	1.15	3%+1.95		.12
Tunnel:					
Electricians	13.52	1.05	3%+1.70		.02
Cable Splicers	13.82	1.05	3%+1.70		.02
Sound Technicians:					
Sound Technicians (on new building construction)	12.67	.75	3%		
Sound Technicians (on modification of existing buildings)	10.74	.75	3%		
Area 4:					
Electricians	17.24	.81	3%+1.45		.02
Cable Splicers	17.14	.81	3%+1.45		.02
Area 5:					
Electricians	15.91	.85	3%+2.40		.04
Cable Splicers	16.41	.85	3%+2.40		.04
Area 6:					
Electricians	14.90	1.21	3%+2.90		.04
Cable Splicers	15.40	1.21	3%+2.90		.04
Tunnel:					
Electricians	16.39	1.21	3%+2.90		.04
Cable Splicers	16.69	1.21	3%+2.90		.04
Area 7:					
Electricians	16.98	1.23	3%+1.50		.03
Cable Splicers	18.68	1.23	3%+1.50		.03
Area 8:					
Electricians	17.00	1.10	3%+1.50		.03
Cable Splicers	18.50	1.10	3%+1.50		.03

*See AREA Descriptions - Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 9:					
Electricians	$16.71	$1.20	3%+1.95		.02
Cable Splicers	18.38	1.20	3%+1.95		.02
Area 10:					
Electricians	19.50	1.10	3%+1.50		.03
Cable Splicers	21.00	1.10	3%+1.50		.03
Area 11:					
Electricians	19.00	1.10	3%+1.95		.15
Cable Splicers	20.90	1.10	3%+1.95		.15
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	15.41	1.045	.82	a	.035
Area 2:					
Elevator Constructors	16.37	.895	.82	a	.035
GLAZIERS:*					
Area 1	10.90	.67	.90		
Area 2	18.50	1.10	3.00		.07
IRONWORKERS:					
Fence Erectors	13.11	1.39	2.57	2.00	.07
Reinforcing	14.00	1.39	2.57	2.00	.07
Ornamental; Structrual	14.00	1.39	2.57	2.00	.07
IRRIGATION and LAWN SPRINKLERS:*					
Area 1	11.12	10%	16%	13%	1½%
LATHERS:					
Area 1	12.58	1.15	1.85	.90	.05
Area 2	14.00	1.26	1.99		.03
Area 3	15.63	1.63	2.21	1.00	.10
Area 4	7.72	.87		3.20	
Area 5	11.67	.82	1.25	1.50	
Area 6	12.50	.85	1.00	.50	.03
Area 7	14.11	.90	1.41	1.03	.01
LINE CONSTRUCTION:*					
Area 1:					
Groundmen	11.44	.75	3%+1.45		
Linemen	14.30	.75	3%+1.45		
Cable Splicers	14.58	.75	3%+1.45		
Area 2:					
Groundmen	9.94	.90	3%+1.60		.15
Linemen	13.25	.90	3%+1.60		.15
Cable Splicers	14.58	.90	3%+1.60		.15

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Imperial County
Area 2: Inyo, Kern, and Mono Counties
Area 3: Los Angeles, and Orange Counties
Area 4: Riverside and San Bernardino Counties
Area 5: Santa Barbara and San Luis Obispo Counties
Area 6: Ventura County

CEMENT MASONS:
Area 1: Point Arguello, Camp Roberts, Edwards Air Force Base, Naval Ordnance Test Center, Vandenberg AFB

DIVERS:*
Shall receive a minimum of 8 hours pay for any day or part thereof.

ELECTRICIANS:
Area 1: Imperial County
Area 2: Kern County (Remainder of County)
Area 3: Los Angeles County
Area 4: Orange County
Area 5: Riverside County
Area 6: Inyo, Mono, and San Bernardino Counties
area 7: San Luis Obispo County
Area 8: Santa Barbara County (except Vandenberg AFB)
Area 9: Ventura County
Area 10: Vandenberg Air Force Base
Area 11: Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)

ELEVATOR CONSTRUCTORS:
Area 1: Imperial, Inyo, Kern (south of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties
Area 2: Kern County (north of Tehachapi Range)

GLAZIERS:
Area 1: Imperial County
Area 2: Santa Barbara, San Luis Obispo and Ventura Counties

LATHERS:
Area 1: Inyo, Kern, and Mono counties
Area 2: Los Angeles County (except City of Lancaster)
Area 3: Ventura County
Area 4: San Luis Obispo County
Area 5: Santa Barbara County
Area 6: Orange County
Area 7: Riverside County

LINE CONSTRUCTION:
Area 1: Imperial County
Area 2: Kern County (Remainder of County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:* (Cont'd)					
Area 3:					
Groundman, 1st year	$11.43	.81	3%+1.45		.02
Groundman, after 1st year	12.12	.81	3%+1.45		.02
Lineman, Heavy Equipment Operators	14.04	.81	3%+1.45		.02
Cable Splicers	14.69	.81	3%+1.45		.02
Area 4:					
Groundmen	9.86	1.25	3%+1.95		
Linemen	13.14	1.25	35+1.95		
Cable Splicers	13.44	1.25	3%+1.95		
Area 5:					
Groundmen	9.41	1.11	3%+2.00		.04
Linemen	12.71	1.11	3%+2.00		.04
Cable Splicers	13.44	1.11	3%+2.00		.04
Area 6:					
Groundmen	9.65	.85	3%+1.65		.04
Linemen; Line Equipment Operators	13.08	.85	3%+1.65		.04
Cable Splicers	13.38	.85	3%+1.65		.04
Area 7:					
Groundmen	12.14	1.00	3%+1.35		.03
Linemen; Line Equipment Operators	16.18	1.00	3%+1.35		.03
Cable Splicers	16.99	1.00	3%+1.35		.03
Area 8:					
Groundmen	12.93	1.00	3%+1.05		.02
Linemen	14.21	1.00	3%+1.05		.02
Cable Splicers	15.63	1.00	3%+1.05		.02
Area 9:					
Groundmen	12.75	1.10	3%+1.50		.03
Linemen	17.00	1.10	3%+1.50		.03
Cable Splicers	18.50	1.10	3%+1.50		.03
Area 10:					
Groundmen	15.25	1.10	3%+1.50		.03
Lineman	19.50	1.10	3%+1.50		.03
Cable Splicers	21.00	1.10	3%+1.50		.03
Area 11:					
Groundman	15.00	1.10	3%+1.95		.15
Lineman, Equipment Operators	19.00	1.10	3%+1.95		.15
Cable Splicers	20.90	1.10	3%+1.95		.15

*See AREA Descriptions - Page 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:*					
Area 1	$12.42	$1.50	$1.62	$1.18	
Area 2	13.54	.81	1.17		.08
MARBLE, TERRAZZO & TILE FINISHERS:					
Area 1	9.44	.81	1.17		.08
PAINTERS:*					
Area 1:					
Brush; Paint Burners	14.26	1.23	1.43	.75	.07
Paperhangers	14.76	1.23	1.43	.75	.07
Sandblaster; Iron, Steel and bridge (swing stage)	15.26	1.23	1.43	.75	.07
Sheet Rock Tapers	15.26	1.23	1.43	.75	.07
Brush (Swing Stage); Spray	14.51	1.23	1.43	.75	.07
Steeplejack	15.91	1.23	1.43	.75	.07
Area 2:					
Brush	12.73	.86	.80	.60	.02
Structural Steel and bridge; Paint Burner	12.85	.86	.80	.60	.02
Tapers	14.06	.86	.80	.60	.02
Brush Swing Stage (13 stories or less); Paperhangers; Sandblasters; Spray Painters	13.13	.86	.80	.60	.02
Brush Swing Stage (over 13 stories)	13.10	.86	.80	.60	.02
Structural steel and bridge, Swing Stage (13 stories or less)	13.13	.86	.80	.60	.02
Structural Steel and bridge, Swing Stage (excess of 13 stories)	13.25	.86	.80	.60	.02
Spray Painter; Sandblaster, Swing Stage (excess of 13 stories)	13.35	.86	.80	.60	.02
Spray Painters; Sandblaster, Swing Stage (13 stories or less); Paste Machine; Special coating Spray	12.91	.71	.80	.60	.02
Steeplejack	13.65	.71	.80	.60	.02

*See AREA Descriptions - Following Page

AREA DESCRIPTIONS

LINE CONSTRUCTION: (Cont'd)
Area 3: Orange County
Area 4: Los Angeles County
Area 5: Inyo, Mono, and San Bernardino Counties
Area 6: Riverside County
Area 7: San Luis Obispo County
Area 8: Ventura County
Area 9: Santa Barbara County (except Vandenberg AFB)
Area 10: Vandenberg AFB
Area 11: Kern County (China Lake Naval Ordnance Test Station, Edward AFB)

MARBLE SETTERS:
Area 1: Inyo and Mono Counties
Area 2: Imperial County

MARBLE, TERRAZZO and TILE FINISHERS:
Area 1: Imperial County

PAINTERS:
Area 1: Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding western portion)
Area 2: Inyo, Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, south including the Wrightwood Area), Kern (east of the Los Angeles Aqueduct)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*, (Cont'd)					
Area 3:					
Brush	$10.63	.80	$1.00		.03
Brush or Roller (swing stage); Paperhangers; Taping Joint Sheet Rock	10.88	.80	1.00		.03
Spray; Sandblasters	11.13	.80	1.00		.03
Steeplejack	12.13	.80	1.00		.03
Area 4:					
Brush; Pot Tender	13.98	1.25	1.83		.03
Paperhangers; Paste Machine Operators; Iron and Steel	14.23	1.25	1.83		.03
Spray; Taper; Sandblasters	14.48	1.25	1.83		.03
Steeplejack	14.98	1.25	1.83		.03
Parking Lot Striping Work and/or Highway Markers:					
Area 1:					
Striper	11.82	.55	.40	b	
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface; Sandblaster	10.72	.85	.50	b	
Slurry Seal Operation:					
Mixer	10.72	.85	.50	b	
Squeegee Man	9.14	.85	.50	b	
Applicator Operator	9.14	.85	.50	b	
Shuttleman	9.14	.85	.50	b	
Top Man	7.60	.85	.50	b	
Area 2:					
Traffic Delineating Device Applicator	10.72	.85	.50	b	
Wheel Stop Installer; Surface Sandblaster	10.72	.85	.50	b	
Striper	10.33	.85	.50	b	
Slurry Seal Operation:					
Mixer Operator	10.33	.85	.50	b	
Squeegee Man	9.14	.85	.50	b	
Applicator Operator	8.54	.85	.50	b	
Shuttleman	9.14	.85	.50	b	
Top Man	7.60	.85	.50	b	
PLASTERERS:					
Area 1	12.335	.93	1.85		.12
Area 2	18.95				
Area 3	12.00				
Area 4	15.10	1.00	1.30		
Area 5	14.51	1.30	3.00		.02
PLASTERERS TENDERS:					
Area 1	13.32	1.25	2.90	1.00	
Area 2	10.92	1.25	2.55	.95	
Area 3	11.775	1.25	2.55	1.10	
Area 4	13.08	1.25	2.55	1.15	
Area 5	14.08	1.25	1.83		.03
Area 6	13.58	1.25	2.60	1.10	

*SEE AREA DESCRIPTIONS - See Following Page

AREA DEFINITIONS

PAINTERS: (Cont'd)
Area 2: Inyo, Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, south including the Wrightwood Area), Kern (East of the Los Angeles Aqueduct)
Area 3: Kern County (except the portion lying east of the Los Angeles Aqueduct)
Parking Lot Striping Work and/or Highway Markers; and Slurry Seal Operation:
Area 1: Inyo and Mono Counties
Area 2: Remaining Counties

PLASTERERS:
Area 1: Los Angeles and Orange Counties
Area 2: Riverside and San Bernardino Counties
Area 3: San Luis Obispo County
Area 4: Santa Barbara County
Area 5: Ventura County

PLASTERERS TENDERS:
Area 1: Imperial, Inyo, Mono, Riverside and San Bernardino Counties
Area 2: Kern County
Area 3: Los Angeles and Orange Counties
Area 4: San Luis Obispo County
Area 5: Santa Barbara County
Area 6: Ventura County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:*					
Area 1	$15.25	$1.53	2.44	$1.98	.11
Area 2	15.88	1.05	2.25	1.45	.17
Area 3	20.88	1.05	2.25	1.45	.17
REFRIGERATION & AIR CONDITIONING:*					
Area 1	10.70	.96	.85	1.00	.05
Area 2	13.82	2.00	2.00	1.52	.30
ROOFERS:*					
Area 1	12.79	.80	1.05	1.00	
Area 2	12.05	.80	.60		.02
Area 3	12.65	.80	1.00	1.25	
Area 4	13.31	.97	2.05		.065
Area 5	13.37	.645	1.49		
SHEET METAL WORKERS:*					
Area 1	14.96	1.04	2.24		.01
Area 2	14.51	1.14	1.80		.02
Area 3	15.16	1.14	2.52		.10
Area 4	14.16	1.14	2.64		.09
Area 5	13.90	1.14	1.91		.16
Area 6	14.93	1.14	2.52		
SOFT FLOOR LAYERS:*					
Area 1	11.52	.81	1.45		.10
Area 2	12.72	.75	1.20	.75	.08
Area 3	12.80	.85	.85	1.18	.07
SPRINKLER FITTERS:*					
Area 1	15.52	.75	1.05		.08
Area 2	16.83	.83	1.05		.09
TERRAZZO WORKERS:*					
Area 1	12.69	.81	1.17		.08
TILE SETTERS:*					
Area 1	12.69	.81	1.17		.08
Area 2	13.81	1.06	1.40		.10
Area 3	10.50	1.20	1.85		.07
Area 4	12.95	1.03	1.35		
TILE FINISHERS:*					
Area 1	9.96	1.39	1.30		.13

*See AREA DESCRIPTIONS - Following Page

AREA DESCRIPTIONS

PLUMBERS; Steamfitters:
Area 1: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties
Area 2: Inyo, Kern, and Mono Counties
Area 3: Edwards AFB, Naval Weapons Center & China Lake Ordnance Test Ctr.

REFRIGERATION and AIR CONDITIONING:
Area 1: Riverside and San Bernardino Counties
Area 2: Los Angeles and Orange Counties

ROOFERS:
Area 1: Imperial County
Area 2: Inyo, Kern and Mono Counties
Area 3: Riverside and San Bernardino Counties
Area 4: Los Angeles, Orange and Ventura Counties
Area 5: San Luis Obispo and Santa Barbara Counties

SHEET METAL WORKERS:
Area 1: Imperial County
Area 2: Kern County and all of Inyo and Mono Counties, Los Angeles County (that portion north of a straight line drawn between Gorman and Big Pines)
Area 3: Los Angeles County (remaining portion)
Area 4: Orange County
Area 5: Riverside and San Bernardino Counties
Area 6: San Luis Obispo, Santa Barbara and Ventura Counties

SOFT FLOOR LAYERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties
Area 3: Kern County, including that portion lying east of the Los Angeles Aqueduct and that portion of Inyo County included within the Inyo-Kern Naval Reservation

SPRINKLER FITTERS:
Area 1: Imperial, Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario, San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme)
Area 2: Los Angeles (Los Angeles City and Area within 25 miles and Pomona), Orange (Santa Ana); San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)

TERRAZZO WORKERS:
Area 1: Imperial County

AREA DESCRIPTIONS

TILE SETTERS:
Area 1: Imperial County
Area 2: Los Anglees, Orange and Ventura Counties
Area 3: San Luis Obispo and Santa Barbara Counties
Area 4: Riverside and San Bernardino Counties
Area 5: Inyo, Kern and Mono Counties

TILE FINISHERS:
Area 1: Los Angeles, Orange, and Ventura Counties

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 contirbutes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F

b. Employer contributes $.23 per hour to Holiday Fund plus $.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.34 per hour to Vacation Fund, 5 years but less than 10 years $.44 per hour to Vacation Fund, over 10 years $.54 per hour to Vacation Fund

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$10.63	$1.25	$2.90	.95	.12
Group 2	10.78	1.25	2.90	.95	.12
Group 3	10998	1.25	2.90	.95	.12
Group 4	11.28	1.25	2.90	.95	.12
Group 5	11.48	1.25	2.90	.95	.12
(GUNNITE)					
Group 1	12.62	1.25	2.90	.95	.12
Group 2	11.97	1.25	2.90	.95	.12
Group 3	10.91	1.25	2.90	.95	.12
(TUNNEL)					
Group 1	12.54	1.25	2.90	.95	.12
Group 2	12.66	1.25	2.90	.95	.12
Group 3	12.82	1.25	2.90	.95	.12
Group 4	13.10	1.25	2.90	.95	.12
LABORERS: Point Arguello, Camp Roberts, Edwards AFB, Naval Ordnance Test Center, Vandeberg AFB-					
Group 1	12.63	1.25	2.90	.95	.12
Group 2	12.78	1.25	2.90	.95	.12
Group 3	12.98	1.25	2.90	.95	.12
Group 4	13.28	1.25	2.90	.95	.12
Group 5	13.48	1.25	2.90	.95	.12
LABORERS, Tunnel					
Group 1	14.54	1.25	2.90	.95	.12
Group 2	14.66	1.25	2.90	.95	.12
Group 3	14.82	1.25	2.90	.95	.12
Group 4	15.10	1.25	2.90	.95	.12

LABORERS

Group 1: Cleaning and Handling of Panels Forms; Concrete Screeding for rough strike-off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry Packing of concrete, plugging, filling of Shee-bolt Holes; Fire Watcher, Limber, Brush Loaders, Pilers and Debris Handlers; Flagman; Gas, Oil and/or Water Pipeline Laborer; Laborer, general or construction; Laborer, general cleanup; Laborer, landscaping; Laborer, jetting, temporary water and air lines; Mateiral Hoiseman (walls, slabs, floors and decks); Rigging and Signaling; Scaler; Slip Form Raisers; Slurry Seal Crews (Mixer Operator, Applicator Operator, Squeegee Man, Shuttle Man, Top Man); Striper, concrete or other paved surfaces; Tarman and Mortar Man; Tool Crib or Tool House Laborer; Traffic Delineating Device Applicator; Window Cleaner; Wire Mesh, pulling all concrete pouring operations

Group 2: Asphalt Shoveler; Cement Dumper (on 1 yard or larger Mixer and handling bulk cement); Cesspool Digger and Installer, Chucktender; Chute Man, pouring concrete, the handling of the Chute from Ready Mix Trucks, such as walls, slabs, decks, floors, foundations, footings, curb, gutters and sideqlaks; Concrete Curer, Impervious Membrane and Form Oiler; CuttingTorch Operator (demolition); Fine Grader, highways and street paving, airport, runways, and similar type heavy construction; Gas, Oil and/or Water Pipeline Wrapper, Pot Tender and Form Man; Guineau Chaser; Headerboard Man, asphalt; Laborer, packing rod steel and pans; Power Broom Sweepers (small); Riprap Stonepaver, placing stone or wet sacked concrete; Roto Scraper and Tiller; Sandblaster (Pot Tender); Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders; Underground Laborer, including Caisson Bellower

Group 3: Asphalt Raker, Luteman, Ironer and Asphalt Spreader Boxes (all types); Buggymobile Man; Concrete Core Cutter, Grinder or Sander; Concrete Cutting Torch; Concrete Saw Man, cutting, scouring old or new concrete; Driller, Jackhammer, 2½ ft. drill steel or longer; Dri Pak-it Machine; Gas, Oil and/or Water Pipeline Wrapper, 6" pipe and over, by any method, inside and out; Hydro Seeder and similar type; Impact Wrench, Mutli-plate; Kettlemen, Potmen and Men applying asphakt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operators of pneumatic, gas, electric tools, Vibrating Machines, Pavement Breakers, Air Balsting, Come-alongs, and similar mechanical tools not seperately classified herein; Pipelayer's Backup Man, coating, grouting, making of joints, sealing, caulking, diapering and including Rubber Gasket Joints, pointing and any and all other services; Rovk Slinger; Rotary Scarificer or Multiple Head Concrete Chipping Scafifier; Steel Headerboard Man and Guideline Setter; Tampers, Barko, Wacker and similar type; Trenching Machine, ahnd propelled

LABORERS (Cont'd)

Group 4: Cribber, Shorer, Lagging, Sheeting and Trench Bracing, Hand-guided Lagging Hammer; Head Rock Slinger; Laser Beam; Oversize Concrete Vibrator Operator, 70 lbs. and over; Pipelayer, including water, sewage, solid, gas or air; Prefabricated Manhole Installer; Sandblaster (Nozzleman), water blasting; Welding in connection with Laborers' work

Group 5: Blasters Powderman, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding Jackhammer, whether Core, Diamond, Wagon, Track, Multiple Unit, and any and all types of mechanical drills

(GUNNITE)

Group 1: Nozzlemen and Rodmen

Group 2: Gunmen

Group 3: Reboundmen

(TUNNEL)

Group 1: Batch Plant Laborers; Bull Gang Mucker, Trackman; Concrete Crew, including Rodders and Spreaders; Changehouseman; Dumpman; Dumpman (outside); Swamper (Brakeman and Switchman on tunnel work); Tunnel materials handling man; Tool Man

Group 2: Cable Tender; Chuck Tender; Nipper; Steel Form Raiser and Setter's Helper; Vibratorman, Jackhammer, pneumatic tools (except Driller); Loading and unloading Agitator Cars; Pot Tender, using mastic or other materials

Group 3: Balster, Driller, Powderman; Chemical Grout Jetman; Cherry Pickerman; Grout Gunman; Grout Mixerman; Grout Pumpman; Jackleg Miner; Jumbo Man; Kemper and other pneumatic concrete placer Operator; Miner, tunnel (hand or machine); Powderman (Primer House); Primer Man; Shotcrete Man; Steel Form Raiser and Setter; Timberman; Retimber (wood or steel); Tunnel Concrete Finisher; Nozzleman; Operating Troweling and/or Grouting Machine; Sandblaster

Group 4: Shaft, Raise Miner; Diamond Driller

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: DREDGING (Hydraulic Suction Dredges)					
LEVERMAN	$11.60	.95	$2.00	.50	.04
WATCH ENGINEER; Welder	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
WINCHMAN (Stern Winch or Dredge)	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.93	.95	2.00	.50	.04
(Clamshell Dredges)					
LEVERMAN	11.60	.95	2.00	.50	.04
WATCH ENGINEER	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
BARGE MATE	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.93	.95	2.00	.50	.04
POWER EQUIPMENT OPERATORS:					
Group 1	13.60	1.10	2.65	.90	.14
Group 2	13.88	1.10	2.65	.90	.14
Group 3	14.17	1.10	2.65	.90	.14
Group 4	14331	1.10	2.65	.90	.14
Group 5	14.53	1.10	2.65	.90	.14
Group 6	14.64	1.10	2.65	.90	.14
Group 7	14.76	1.10	2.65	.90	.14
Group 8	14.93	1.10	2.65	.90	.14
Group 9	15.06	1.10	2.65	.90	.14

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader, wheel type up to 3/4 yard without attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Raidoman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (aspahlt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and inlcidung 10 tons); Equipment Greaser (Greaser Truck); Helicopter Hoist; Highline Cableway Singlaman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yard); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells); Forklift (under 5 ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanic Berm, Curb or Gutter (aspahlt or concrete); Mechanical Finisher (concrete-Clary, Johnson, Bidwell, or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Skiploader (Crawler and wheel type,. over 3/4 yard and up to and including 1½ yards); Stinger Crane (Austin-Western or similar type); Tractor, Bulldozer, Tamper Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist, 1 drum; Tunnel Locomotive (over 10 tna up to and including 30 tons); Welder-general

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (Gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity) (Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey-Euclid, Sierra and similar type); Mateiral Hoist; Mucking Machine (1/4 yard rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment (single engine, Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments, over 25 yards struck); Rubber-tired Scraper (self-loading paddle wheel type, John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type, over 1½ yards, up to and including 6½ yards); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar); Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boot attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yards m.r.c.) (Long boom pay applicable); Self-propelled Curb and Gutter Machine

Group 7: Crane, over 25 ton up tc and including 100 tons m.r.c. (Long boom pay applicable); Derrick Barge (Long boom pay applicable); able); Dual Drum Mixer; Heavy Duty Repairman, welder combination; Hoist, Sitff-legs, Guy Derrick or similar type, up to and including 100 tons (Long Boom pay applicable); Monorail Locomotive (diesel gas or electric); Motor Patrol-blade Operator (single engine); Mu-Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yards struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar)(over 25 yards and up tc 5 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r. c.) (Long Boom pay applicable); Tower Crane Repairman; Tractor Loader (Crawler and wheel type, over 6½ yards); Welder, certified; Woods Mixer and similar Pugmill Equipment

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (Long boom pay applicable); Hoist, Stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more)(Long boom applicable); Mass Excavator, less than 750 cu. yards; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpiller and similar type, over 50 cu. yards struck); Rubber-tired Self-loading Scraper (paddle wheel, auger type self-loading, 2 or more units); Rubber-tired Scraper, pushing one another without Push Cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 per hour additional to base rate); Wheel Excavator (over 750 cu. yard)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.91	$1.25	$1.33	$1.35	.15
Group 2	12.99	1.25	1.33	1.35	.15
Group 3	13.05	1.25	1.33	1.35	.15
Group 4	13.14	1.25	1.33	1.35	.15
Group 5	13.17	1.25	1.33	1.35	.15
Group 6	13.19	1.25	1.33	1.35	.15
Group 7	13.23	1.25	1.33	1.35	.15
Group 8	13.24	1.25	1.33	1.35	.15
Group 9	13.29	1.25	1.33	1.35	.15
Group 10	13.32	1.25	1.33	1.35	.15
Group 11	13.37	1.25	1.33	1.35	.15
Group 12	13.39	1.25	1.33	1.35	.15
Group 13	13.44	1.25	1.33	1.35	.15
Group 14	13.69	1.25	1.33	1.35	.15
Group 15	13.94	1.25	1.33	1.35	.15
Group 16	14.04	1.25	1.33	1.35	.15
Group 17	14.14	1.25	1.33	1.35	.15
Group 18	14.44	1.25	1.33	1.35	.15
Group 19	14.94	1.25	1.33	1.35	.15

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver of vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Untility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame of Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All Off-highway Equipment within Teamsters' jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

Group 17: Low Bed Driver, 9 axle or over

Group 18: Water Pull, single engine with attachments

Group 19: Water Pull, twin engine with attachments

SUPERSEDEAS DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NUMBER: IN80-2085 DATE: Date of Publication
Supersedes Decision No. IN77-2010, dated February 11, 1977 in 42 FR 8912. IN77-2007, dated February 11, 1977, in 42 FR 8940, & IN77-2098, dated May 27, 1977, in 42 FR 27553.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Allen, DeKalb & Steuben	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$7.50				
BRICKLAYERS	9.77	.57	.50	1.01	
CARPENTERS	6.56				
CEMENT MASONS	6.56				
DRYWALL HANGERS	9.00				
DRYWALL FINISHERS	6.54				
ELECTRICIANS	6.99				
HEATING MECHANICS	7.50				
INSULATORS	8.13				
LABORERS	5.31				
PLUMBERS	9.00				
ROOFERS	5.99				
SHEET METAL WORKERS	6.88				
TRUCK DRIVERS	6.65				
POWER EQUIPMENT OPERATORS:					
Backhoe	8.30				
Bulldozer	8.75				
Crane	10.20				
Front End Loader	9.92				

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: Iowa COUNTY: Pottawattamie
DECISION NO.: IA80-4049 DATE: Date of Publication
Supersedes Decision No. IA78-4108, dated Nov. 24, 1978 in 43 FR 55173
DESCRIPTION OF WORK: Building Construction in entire County (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.52	.70	.71		.03
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	12.36	.82	.60		.05
CARPENTERS:					
Carpenters	10.98	.75	.60	1.00	.08
Piledrivermen	11.105	.75	.60	1.00	.08
Millwrights	11.23	.75	.60	1.00	.08
CEMENT MASONS	11.81	.82	.90		
DRYWALL TAPERS & FINISHERS	10.34	.55			½%
ELECTRICIANS	14.71	.98	3%+.95		
ELEVATOR CONSTRUCTORS	12.76	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.045	.82	a	.035
GLAZIERS	13.79	.75	.50		.01
IRONWORKERS	10.98	.82	1.00	1.00	.05
LABORERS:					
Common Laborers	9.11	.65	.65		.05
Mason Tenders; mortar mixers	9.285	.65	.65		.05
Pipelayers	9.45	.65	.65		.05
Plasterers' tenders	9.495	.65	.65		.05
LINE CONSTRUCTION:					
Cable splicers; Lineman; welders; technicians; all rigs setting assembled "H" fixtures & steel transmission structures	11.96	.45	7%	b	½%
Groundman; truck driver (without winch); experienced (not less than 6 months)	7.77	.45	7%	b	½%
Groundman; truck driver (with winch)	7.89	.45	7%	b	½%
Blaster; Special equipment operator (hole digging machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	9.57	.45	7%	b	½%
Groundman - 1st 6 months	6.58	.45	7%	b	½%

DECISION NO. IA80-4049

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Paperhangers	$10.10		.25		
Highwork; spray; stage; structural steel	10.65		.25		
PLASTERERS	11.53	.57	.50		
PLUMBERS	13.04	.95	1.05		.10
ROOFERS:					
Slate; Tile	10.95	.70	.20		.01
Composition	10.65	.70	.20		.01
SHEET METAL WORKERS	12.89	.75			.07
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	12.22	.30	.40		

FOOTNOTES:

a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven paid holidays A thru G.

b - Seven paid holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA80-4049 (Cont'd): Page 3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.32	.90	.90		.10
Group 2	12.085	.90	.90		.10
Group 3	10.78	.90	.90		.10
Group 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

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: Mississippi COUNTY: See Below*
DECISION NUMBER: MS80-1104 DATE: Date of Publication
Supersedes Decisions Nos.: MS76-1074 dated July 16, 1976 in 41 FR 29650; MS76-1099 dated September 17, 1976 in 41 FR 40368.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

*Counties: Hinds, Copiah, Rankin, Simpson, Madison Yazoo, Sharkey, Issaquena, Warren, and Claiborne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanics	$5.00				
Bricklayers	7.90				
Carpenters	4.92				
Carpet Layers, Soft Floor Layers	5.75				
Drywall Finishers	7.50				
Drywall Hangers	5.43				
Cement Masons	6.10				
Electricians	7.25				
Insulators	4.00				
Ironworkers, reinforcing	4.59				
Laborers:					
Laborers	3.30				
Mason Tender	3.75				
Mortar Mixer	4.13				
Painters:					
Brush	6.01				
Roller	7.50				
Plumbers & Pipefitters	7.25				
Roofers	5:00				
Tile Setters	6.38				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.43				
Bulldozer	4.69				
Loader	6.12				
Pump Operator	5.26				
Roller	4.00				
Trenching Machine	5.20				

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION No. MO80-4071

DATE: Date of Publication

Supersedes Decision No. MO79-4099 dated December 14, 1979 in 44 FR 72817

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	12.59	.95	.35	1.50	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	12.30	.60	.50		.07
CEMENT MASONS	11.675	.65	.50		
ELECTRICIANS:					
Up to and including 3 stories:					
ZONE 1 - Johnson County, Kansas (that portion of Johnson County west of Aubry, Oxford & Shawnee Twps.)	9.30	.45	3%+.30		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Counties, Missouri; & Wyandotte County, Kansas; & remainder of Johnson County, Kansas	9.97	.69	3%+.70	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1 - Western half of Clay & Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County; Northwestern portion of Cass County, Missouri, not including Pleasant Hill	13.38	.69	3%+.70	.95	.12
ZONE 4 - Remainder of Cass Clay, Jackson & Platte Counties, Missouri: Electricians (contracts exceeding 2000 man hours)	13.38	.69	3%+.70	.95	.12

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (4 stories): (Cont'd)					
ZONE 2 - Electricians (contracts not exceeding 2000 man hours	12.38	.69	3%+.70	.95	.12
ZONE 3 - Ray County, Missouri; Electricians (contracts exceeding 2000 man hours	13.38	.69	3%+.70	.95	.12
Electricians (contracts not exceeding 2000 man hours	11.78	.69	3%+.70		.12
ELEVATOR CONSTRUCTORS	14.135	1.195	.95	8%+a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	8%+a	.035

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
LABORERS:					
Building Construction:					
ZONE 1 - Cass, Clay, Jackson & Platte Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
GROUP I	11.25	.45	.40		.10
GROUP II	11.40	.45	.40		.10
GROUP III	11.55	.45	.40		.10
ZONE 2 - Ray County, Missouri					
GROUP I	10.55	.45	.40		.10
GROUP II	10.70	.45	.40		.10
GROUP III	10.85	.45	.40		.10

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CLASSIFICATION DEFINITIONS

LABORERS
GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects).
GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgie buggies (self-propelled) fork lift; hosemen; insulation man.
GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; power men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Site Preparation & Grading ZONE 3 - Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
GROUP I	10.50	.60	.60	1.00	.10
GROUP II	10.65	.60	.60	1.00	.10
GROUP III	10.80	.60	.60	1.00	.10
GROUP IV	11.00	.60	.60	1.00	.10
GROUP V	11.30	.60	.60	1.00	.10

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CLASSIFICATION DEFINITIONS

LABORERS:
GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers.
GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checker on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only).
GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.
GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar application; hand blade operator; manhole builders tenders and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels.
GROUP V - Manhole builder (brick or block); dynamite and powder man.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
MARBLE & TILE SETTERS	12.65	5%	4.25%		
MARBLE & TILE SETTERS FINISHERS	10.85				
PAINTERS:					
Brush & roller	11.69	.55	.70		.08
Spray	12.69	.55	.70		.08
PLASTERERS	14.45				
PIPEFITTERS	14.54	.72	1.60		.10
PLUMBERS	14.52	1.12	1.20		.12
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	12.20	.75	1.00	.75	.10
GROUP II	11.85	.75	1.00	.75	.10
GROUP III	9.45	.75	1.00	.75	.10
GROUP IV	9.95	.75	1.00	.75	.10
GROUP V	10.20	.75	1.00	.75	.10
GROUP VI	12.45	.75	1.00	.75	.10
GROUP VII	12.70	.75	1.00	.75	.10
GROUP VIII	12.10	.75	1.00	.75	.10
GROUP IX	13.20	.75	1.00	.75	.10
GROUP X	12.70	.75	1.00	.75	.10
GROUP XI					
(a)	11.95	.75	1.00	.75	.10
(b)	11.70	.75	1.00	.75	.10
(c)	9.70	.75	1.00	.75	.10

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all-similar type; hoist, endless chain-power operated with power travel; loaders-all types; mechanic and welder; mucking machine; orange peels; pumps-material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man.

GROUP II - Boilers (1); brooms-power operated (all types); chip spreader (front man); clef plane operator; compressors (1) 150' or over; concrete saws, self-propelled); crab-power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist; hoist, endless chain-power operated; hopper-power operated; hydra hammer (all types); ladavator-similar type; rollers-all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart: compressors-tandem any sizes); compressors single, truck mounted; elevator; finishing machine.

GROUP III - Oiler

GROUP IV - Fork lift-masonry; oiler drivers-all types

GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; fork lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps.

GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); dragline, 80 ft. of boom or over (including jib); piledrivers, 80 ft. of boom or over (including jib)

GROUP VII - Crane or rigs, over 200 ft. of boom

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic

GROUP X - Crane-tower or climbing

GROUP XI - Ready mixed concrete plants:
(a) - Crane operator
(b) - Loader operator & plant man
(c) - Conveyor operator

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri (Zone 2)					
GROUP I	12.45	.85	1.00	1.05	.15
GROUP II	12.20	.85	1.00	1.05	.15
GROUP III	11.50	.85	1.00	1.05	.15
GROUP IV					
(a)	9.03	.85	1.00	1.05	.15
(b)	10.50	.85	1.00	1.05	.15
GROUP V	12.70	.85	1.00	1.05	.15
GROUP VI	12.45	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader-fork lift; hoistline engine-2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump-2; push cat operator; quad-track; scoop operator-all types; scoops in tandem; self-propelled rotary drill (leroy or equal-not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operater; slip-form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator-2.

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 2 Cont'd

GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator elevating grader; greaser; hoisting engine-1 drum; latourneau rooter; multiple compactor; pavement breaker, self propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p..

GROUP III - Boilers-1; chip spreader (front man); churn drill operator; compressor maintenance operator-1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator-1.

GROUP IV
(a) Oiler
(b) Oiler drivers, all types

GROUP V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over

GROUP VI - Hoists (each additional drum over 1 drum)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	11.60	.75	.75		.14
SHEET METAL WORKERS	12.73	.75	1.20		.10
SOFT FLOOR LAYERS	10.53	.60	.85	1.00	1%
SPRINKLER FITTERS	14.83	.85	1.20		.06
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Zone 1					
GROUP I	10.925	.75	1.00		
GROUP II	10.975	.75	1.00		
GROUP III	11.05	.75	1.00		
GROUP IV	11.175	.75	1.00		
GROUP V	11.075	.75	1.00		
GROUP VI	11.275	.75	1.00		
GROUP VII	11.125	.75	1.00		
GROUP VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1
GROUP I - Warehousemen and stock man.
GROUP II - Flat beds; pick-ups; dump trucks, under 10 yds..
GROUP III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers.
GROUP IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, A-frame winch and fork lifts; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over).
GROUP V - Distributor truck drivers and operators; oilers, greasers and mechanics' tenders.
GROUP VI - Mechanics.
GROUP VII Transit mix, 5 yds. and over.
GROUP VIII Transit mix, under 5 yds..

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & Utilities Clay, Jackson, Platte & Ray Counties, Missouri					
Zone 2					
GROUP I	10.91	1.00	1.25	.75	
GROUP II	11.11	1.00	1.25	.75	
GROUP III	11.42	1.00	1.25	.75	
GROUP IV	11.57	1.00	1.25	.75	
GROUP V	10.69	1.00	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 2
GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle.
GROUP II - Material trucks, tandem; two teams; semi-trailers; winch trucks-fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment.
GROUP III - A-frame, lowboy, and boom truck driver.
GROUP IV - Mechanics and welders.
GROUP V - Mechanics tender, soilers and greasers.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)."

SUPERSEDEAS DECISION

STATE: New York COUNTIES: Bronx, Kings, Queens, New York, & Richmond

DECISION NO. NY80-3057 DATE: Date of Publication

Supersedes Decision No. NY79-3011 dated May 18, 1979 in 44 FR 29249

DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Asbestos Workers	12.38	1.02	1.82		
Boilermakers	16.34	5%	5%		
Bricklayers	12.00	1.48	3.98		
Carpenters, Soft Floor Layers, Drywall Installers	13.04	1.85	1.78	.95	.05
Millwrights	13.04	1.85	1.78	1.11	.04
Dockbuilder & Piledrivermen	12.94	1.85	1.78		.05
Cement Masons	12.10	2.04	1.67		.09
Diver	15.38	1.875	1.78	1.03	.05
Diver Tender	11.99	1.875	1.78	1.03	.05
Electricians	14.65	1½%+a	7½%+b	8½%+c	1%
Elevator Constructors	11.32	.745	.35+d	e+f	.02
Elevator Constructors Helpers	8.44	.745	.35+d	e+f	.02
Elevator Constructors Helpers (Probationary)	5.66				
Glaziers	13.75	.66	1.91	.67	.01
Ironworkers					
Ornamental Finisher	11.90	1.51	3.30	1.00	.14
Reinforcing	12.54	3.9225	2.1375	1.125	
Structural	12.50	1.86	3.85	1.60+g	.11
Laborers:					
Asphalt Laborers	11.45	1.30	1.55	h	
Asphalt Rakers	11.71	1.30	1.55	h	
Asphalt Tampers	11.47	1.30	1.55	h	
Cement Concrete & Excavation	10.65	1.80	1.85		
Mason Tenders	10.73	.887	1.595		
Laborers (Heavy)					
Blasters	14.75	1.07	1.79	2.00	
Concrete Breakers, Chippers, Jackhammers, Pneumatic Tools, Spades	13.03	1.07	1.79	2.00	
Drill Runner, Air Trac, Wagon Drills	13.30	1.07	1.79	2.00	
Powder Carriers	11.98	1.07	1.79	2.00	
Magazine Keepers	7.47	1.07	1.79	2.00	
Nippers	11.41	1.07	1.79	2.00	
Laborers (Highway)					
Form Setters	12.71	1.30	1.55	h	
Pavers	13.68	1.30	1.55	h	
Rammermen	13.24	1.30	1.55	h	
Puddlers, Concrete Rakers	11.30	1.30	1.55	h	
Laborers (Demolition)					
Barmen	11.60	8%	10%		
Barmen Helpers	11.30	8%	10%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Lathers, Metalic	10.79	1.325	1.985	.75+i	.03
Marble Setters:					
Cutters & Setters	11.90	1.21	1.71	j	
Carvers	12.05	1.21	1.71	j	
Poloshers	11.58	1.21	1.71	j	
Crane Operator	9.90	1.21	1.71	j	
Painters					
Brush & Roller	12.00	1.14	1.20	3%	
Spray & Scaffold	14.57	1.14	1.20	3%	
Fire Escape	13.71	1.14	1.20	3%	
Plasterers:					
Kings	12.10	1.45		1.45	
Queens	10.10	1.75		1.35	.01
Bronx, NY, Richmond	10.15	1.10	1.54	.90	.01
Plumbers:					
NY, Bronx	12.10	2.37	2.65	.72	
Kings, Queens	12.75	2.10	2.14	1.19	.22
Richmond	12.79	1.30+k	2.01	1.05	.30
Roofers:					
Composition, Damp Waterproofers	11.05	3.14	2.85		.15
Sheet Metal Workers	14.365	1.925	1.6650		.16
Sprinkler Fitter & Steamfitters	13.88	2.75	1.12	1.00	.07
Stonemasons	14.00	.75	1.00		
Stone Derrickmen & Rigger	14.62				
Terrazzo Workers	11.88	1.32	1.50		
Terrazzo Workers Helpers	9.84	1.21	1.50		
Tile Setters	11.725	1.15	1.10		
Tile Setters Helpers	10.21	1.055	.77		
Pointers, Caulkers & Cleaners	11.82	1.25	2.75		.07
Water Cleaners	12.07	1.25	2.75		.07
Steam Cleaners	12.32	1.25	2.75		.07
Sandblasters	12.92	1.25	2.75		.07
Truck Drivers, Building:					
Ready Mix Concrete, Sand, Gravel and Asphalt	9.44	.9675	1.8525	1+m	
Euclids and Turnapulls	8.825	.9675	1.8525	1+m	
4-Wheel, Hi-Lo Lift Operators	7.525	.9675	1.8525	1+m	
Euclids and Turnapulls (Heavy)	8.825	.9675	1.8525	1+m	
Welders-receive rate prescribed for craft performing operation to which welding is incidental					

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

a. Employer contributes $7.00 per Day.

b. Employer contributes $4.00 per day.

c. Paid Holidays: A through F, Washington's Birthday, Columbus Day, and Election Day.

d. Employer contributes $8.00 per day to an Annuity Fund.

e. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service receive 3 weeks vacation.

f. Holidays A through F, Columbus Day, Election Day, Lincoln's Birthday, Washington's Birthday, and Armistice Day.

g. Paid Holidays: A and F provided the employee works a full half day preceding or following the holiday.

h. Holidays: B, C, D, E, Election Day, Columbus Day, and Veterans' Day providing the employee works at least 1 day in the week in which the holiday occurs.

i. Work on Christmas Eve and New Year's Eve will terminate at Noon, but will receive a full days pay.

j. One half days pay for Labor Day.

k. Employer contributes $6.01 per day to Annuity Fund.

l. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Election Day, Veteran's Day, provided the employee works 2 days in the calendar week in which the holiday falls and each remaining work day during such calendar week.

m. For each 15 days worked within the contract year an employee will receive one day's vacation with pay with a maximum vacation of 3 weeks per year.

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))

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Double Drum Hoist	13.82	1.05	3.25	.75+a	.10
Stone Derrick, Cranes, Cherry Pickers	13.56	1.05	3.25	.75+a	.10
Hoists, Fork Lifts, House Cars, Plasterer (platform machine), Plasterer Bucket, Plasterer Pump, Compressors-Welding Machines (cutting concrete-tank work), Paint Spraying, Sandblasting, and All Equipment Used For Hoisting Material	13.06	1.05	3.25	.75+a	.10
Cranes: All types-crawler or truck					
100' to 149' Boom	14.03	1.05	3.25	.75+a	.10
150' to 249' Boom	14.28	1.05	3.25	.75+a	.10
250' to 349' Boom	14.53	1.05	3.25	.75+a	.10
350' to 450' Boom	15.03	1.05	3.25	.75+a	.10
Steel Erection:					
Three Drum Derricks	14.76	1.05	3.25	.75+a	.10
Cranes, 2 Drum Derricks, Cherry Pickers	14.12	1.05	3.25	.75+a	.10
Compressors, Welding Machines	12.57	1.05	3.25	.75+a	.10
Tower Cranes	13.53	1.05	3.25	.75+a	.10

FOOTNOTE:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday (Iron League Only), Decoration Day, Independence Day, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day providing the employee is employed during the payroll week in which the holiday occurs.

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class 1	13.95	1.05	3.25	.75+a	.10
Class 2	13.85	1.05	3.25	.75+a	.10
Class 3	13.53	1.05	3.25	.75+a	.10
Class 4	13.26	1.05	3.25	.75+a	.10
Class 5	12.97	1.05	3.25	.75+a	.10
Class 6	12.96	1.05	3.25	.75+a	.10
Class 7	12.60	1.05	3.25	.75+a	.10
Class 8	12.32	1.05	3.25	.75+a	.10
Class 9	11.73	1.05	3.25	.75+a	.10
Class 10					
a	14.03	1.05	3.25	.75+a	.10
b	14.28	1.05	3.25	.75+a	.10
c	14.53	1.05	3.25	.75+a	.10
d	15.03	1.05	3.25	.75+a	.10
Class 11	13.31	1.40	.75		.05
Class 12	13.00	1.40	.75		.05
Class 13	12.78	1.40	.75		.05
Class 14	12.27	1.40	.75		.05

FOOTNOTE:

a. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Day, providing the employee works one day in the payroll week in which the holiday occurs.

POWER EQUIPMENT OPERATORS
HEAVY AND HIGHWAY CONSTRUCTION

Class 1: Backhoes, Power shovels.

Class 2: Mine hoist, Cranes, etc, used as mine hoists.

Class 3: Gradalls, Ketstones, Cranes (with digging buckets including sand dock cranes, bridge cranes), Trenching machines.

Class 4: Rigs (under direction of a dockbuilder foreman), Derrick boats, Tunnel shovels, Piledrivers.

Class 5: Raise Bore Drill.

Class 6: Mucking machines, Back filling machines, Cranes, Paver dual drums.

POWER EQUIPMENT OPERATORS (CONT'D)
HEAVY AND HIGHWAY CONSTRUCTION

Class 7: Elevator (manually operated), Concrete pavers, Cableways, Land Derricks, Mixers, Power Houses (which contain low pressure units).

Class 8: Power Houses (other than above), Compressors (3 or more in battery), Stone Crusher, Double Drum Hoist, Concrete pumps, Well point pumps, Tugger machines (caissons), Drilled in caissons, Soil solidification equipment, Welding machines (used for steel erection), Concrete plant, Conveyor attachment, Well Drilling machine.

Class 9: River cofferdam pumps, Welding machines, Boilers, High pressure, Compressors (portable, single or two in a battery), not over 100' apart, Concrete breaking machines, Hoists, Single drum, Load Masters, Locomotives and Dinkies over 10 tons, Mixers (concrete with loading attachment), Push button machines.

Class 10: Long Boom Land Cranes:
a---100' to 149'
b---150' to 249'
c---250' to 450'
d---350' to 450'

Class 11: Junior engineers when operating loaders rubber-tired and/or tractor type with a manufacturer's minimum rated bucket capacity of 6 cubic yards and over.

Class 12: Junior engineers when operating the following equipment and attachments: Scrapers, Turnapulls, Tugger hoists used exclusively for handling excavated material, Tractors (rubber tired and/or track type), Hysters and roustabout cranes, Back scratchers, Cherrypickers under 20 tons, Austin Western and machines of a similar nature, Bulldozers, Loaders rubber tired and/or tractor type with a manufacturer's minimum rated bucket capacity or less than 6 cubic yards, Conveyors, Motor Graders, Curb and Gutter Pavers and machines of a similar nature.

Class 13: Junior engineers when operating the flowing pieces of minor equipment: Tractors, Locomotives 10 tons and under, Post hole diggers, Motor Generators, Road Finishing machines, Mixers 16S and under with or without loading devices, Rollers 5 tons and under, Tugger hoists, Dual purpose trucks, Fork lifts, Dempster Dumpsters, Firemen tending to: Steam operated shovels, power boilers, steam operated piledrivers, steam operated derrick boats, steam operated water rigs.

Class 14: Apprentice engineers and oilers (all gasoline, electric, diesel, or air operated), Shovels, Cranes, Draglines, Backhoes, Keystones, Gradalls, Pavers, Trenching machines, Concrete pumps, Gunite machines, Compressors (3 or more in a battery), Power Houses, there duties shall be to assist the engineer in oiling, greasing and repairing of all machines, giving signals when necessary, chaining buckets and scale boxes, driving truck cranes, driving and operating fuel and grease truck.

SUPERSEDEAS DECISION

STATE: Utah COUNTIES: Statewide
DECISION NUMBER: UT80-5128 DATE: Date of Publication
Supersedes Decision No. UT79-5135 dated November 2, 1979, in 44 FR 63459
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.11	.77	$1.37		
BOILERMAKERS	13.31	1.275	1.25	1.00	.04
BRICKLAYERS	13.50	.70	.62		.10
CARPENTERS:*					
Building Construction:					
Carpenters	11.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	12.15	.65	.65	.25	.03
Millwrights	12.00	.65	.65	.25	.03
Piledrivermen	13.83	.55	.65		.03
Heavy and Highway Construction:*					
Zone 1:					
Carpenters	11.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	12.15	.65	.65	.25	.03
Millwrights	12.00	.65	.65	.25	.03
Piledriveremen	13.83	.55	.65		.03
Zone 2:					
Carpenters	12.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	13.15	.65	.65	.25	.03
Millwrights	12.00	.65	.65	.25	.03
Piledrivermen	13.83	.55	.65		.03
Zone 3:					
Carpenters	13.90	.65	.65	.25	.03
Saw Operators; Carpenters handling creosote materials	14.15	.65	.65	.25	.03
Millwrights	12.00	.65	.65	.25	.03
Piledrivermen	13.83	.55	.65		.03
CEMENT MASONS:					
Building Construction:					
Cement Masons	11.54	.55	.65	.25	.10
Machine Operator; Mastic Floor Materials	11.79	.55	.65	.25	.10

*See ZONE DESCRIPTIONS - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:* (Cont'd)					
Heavy and Highway Construction:					
Zone 1:					
Cement Masons	$11.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	11.79	.65	.65	.25	.10
Zone 2:					
Cement Masons	12.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	12.79	.65	.65	.25	.10
Zone 3:					
Cement Masons	13.54	.65	.65	.25	.10
Machine Operator; Mastic Floor Materials	13.79	.65	.65	.25	.10
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	11.54	.51	.40		.03
ELECTRICIANS:*					
Area 1:					
Zone 1:					
Electricians; Technicians	13.35	.75	3%+.75		8/10%
Cable Splicers	13.60	.75	3%+.75		8/10%
Zone 2:					
Electricians; Technicians	13.85	.75	3%+.75		8/10%
Cable Splicers	14.10	.75	3%+.75		8/10%
Zone 3:					
Electricians; Technicians	14.35	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/10%
Zone 3A:					
Electricians; Technicians	14.35	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/10%
Zone 4:					
Electricians; Technicians	15.75	.75	3%+.75		8/10%
Cable Splicers	16.00	.75	3%+.75		8/10%

*See AREA and ZONE DESCRIPTIONS - following Page

AREA and ZONE DESCRIPTIONS

CARPENTERS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

CEMENT MASONS:
Heavy and Highway Construction:
Zone 1: Area 0 to 40 road miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, and Vernal
Zone 2: Area 40 to 60 road miles from the Cities listed in Zone 1
Zone 3: Area over 60 road miles from the Cities listed in Zone 1

ELECTRICIANS:
Area 1: North section of Utah - Box Elder and Cache Counties; Davis County (north of 41st Parallel); Morgan, Rich, and Weber Counties:
Zone 1: That area 10 miles on either side of Interstate Highway #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Highway #91 - Interstate #15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Highway #91
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel in Cache, Morgan, Weber Counties
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Highway #83
Zone 3A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91
Zone 4: All other area west of Zones 3 and 3A in Box Elder County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
In Zones 2, 3, and 3A, on any job or project not exceeding $200,000 electrical, labor and material including, Zone 1 rate shall apply.					
Area 2:					
Zone 1:					
Zone 1A:					
Electricians; Technicians	$13.35	.75	3%+.75		8/10%
Cable Splicers	13.85	.75	3%+.75		8/10%
Zone 1B:					
Electricians; Technicians	14.10	.75	3%+.75		8/10%
Cable Splicers	14.60	.75	3%+.75		8/105
Zone 1C:					
Electricians; Technicians	14.85	.75	3%+.75		8/10%
Cable Splicers	15.35	.75	3%+.75		8/10%
Zone 2:					
Electricians; Technicians	16.85	.75	3%+.75		8/10%
Cable Splicers	17.35	.75	3%+.75		8/10%
ELEVATOR CONSTRUCTORS	12.91	1.195	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.04	1.195	.95	a	.035
GLAZIERS:					
Area 1	17.02	.75	.40		.08
Area 2	11.07	.51	.60	.98	
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Structural	12.00	.75	1.35		.05
LATHERS	12.22	.55	.70		.01

*SEE AREA and ZONE DESCRIPTIONS - following Page

AREA and ZONE DESCRIPTIONS

ELECTRICIANS: (Cont'd)
Area 2: South section of Utah (Remaining Counties):
Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):
Zone 1A: Ten miles either direction (east or west) from Interstate Highway #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel
Zone 1B: The balance of Zone 1 that lies in Davis, Salt Lake, and Utah Counties
Zone 1C: That portion of the remainder of Zone 1 that lies in Tooele County
Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of the south section of Utah

GLAZIERS:
Area 1: Iron and Washington Counties
Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
Groundman	$ 9.57	.45	3%+.50		1/4%
Line Equipment Serviceman	11.49	.45	3%+.50		1/4%
Line Equipment Mechanic:					
Base Shop	12.29	.45	3%+.50		1/4%
Right-of-way	11.49	.45	3%+.50		1/4%
Line Equipment Operators	11.68	.45	3%+.50		1/4%
Linemen	13.00	.45	3%+.50		1/4%
Cable Splicers	14.34	.45	3%+.50		1/4%
MARBLE SETTERS	12.37	.60	.60		.04
MASON TENDERS	11.02	.50	.35		
PAINTERS:					
Area 1:					
Brush; Roller	10.47	.51	.50		.05
Spray; Sandblast; Steeplejack; Brush, Steel and bridge; Brush (swing stage)	10.72	.51	.50		.05
Spray (swing stage); Sandblaster (swing stage); Spray, steel and bridge	10.92	.51	.50		.05
Area 2:					
Brush; Roller	10.70	.51	.30		.02
Brush (swing stage); Brush (steel & bridge); Spray, Sandblaster, Steelejack	11.00	.51	.30		.02
Spray (swing stage); Spray (steel & bridge); Sandblaster (swing stage)	11.25	.51	.30		.02
Wallcovering Hanger	10.95	.51	.30		.02
PLASTERERS' TENDERS	11.15	.50	.35		
PLASTERERS	12.10	.65	.65		.01
PLUMBERS; Pipefitters	12.60	.81	1.10		.06
REFRIGERATION and AIR CONDITIONING	12.60	.81	1.10		.06
ROOFERS	10.94	.57	.35		.05
SHEET METAL WORKERS	13.71	1.10	1.22		.12
SOFT FLOOR LAYERS	9.98	.51	.27		
SPRINKLER FITTERS	13.17	.85	1.20		.08
TERRAZZO WORKERS and TILE LAYERS	12.37	.60	.65		.04

*See AREA DESCRIPTIONS - following Page

AREA DESCRIPTIONS

PAINTERS:
Area 1: Box Elder, Cache, and Rich Counties; and the following Counties north of an east-west line from the north boundary of Farmington: Davis, Morgan, Summit, Tooele, and Weber Counties
Area 2: Remainder of State

WELDER: Receives rate prescribed for craft performing operation to which Welding is incidental.

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' serivce as Vacation Pay Credit. 7 Paid Holidays: A through G.

b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within an employee's vacation period he shall be allotted an additional day's vacation. 8 paid Holidays: A through F and President's Day and Pioneer Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

LABORERS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.27	.50	.35	.25	.04
Group 2	8.40	.50	.35	.25	.04
Group 3	8.52	.50	.35	.25	.04
Group 4	8.77	.50	.35	.25	.04
Group 5	9.27	.50	.35	.25	.04

Group 1: General Laborer

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump (Head Hoseman); Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactors, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS:* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$8.02	$9.52	.50	.35	.25	.04
Group 2	8.15	9.65	.50	.35	.25	.04
Group 3	8.27	9.77	.50	.35	.25	.04
Group 4	8.52	10.02	.50	.35	.25	.04
Group 5	9.02	10.52	.50	.35	.25	.04
Tunnel and Shaft Work						
Group 1	8.17	9.67	.50	.35	.25	.04
Group 2	8.27	9.77	.50	.35	.25	.04
Group 3	8.47	9.97	.50	.35	.25	.04
Group 4	8.92	10.42	.50	.35	.25	.04

*See AREA DESCRIPTIONS- following TRUCK DRIVERS' classifications

Group 1: General Laborers

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactors, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Tank and similar Drills

Group 5: Powderman

Tunnel and Shaft Work

Group 1: Underground Laborers

Grup 2: Brakeman; Chucktender; Dumpman; Powderman Tender; Puddler; Nipper; Tapman; Vibrator; Screedman

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS:* Building Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$ 9.06	$11.06	$1.28	$1.585	.75	.05
Group 2	9.45	11.45	1.28	1.585	.75	.05
Group 3	9.65	11.65	1.28	1.585	.75	.05
Group 4	9.76	11.76	1.28	1.585	.75	.05
Group 5	10.27	12.27	1.28	1.585	.75	.05
Group 6	10.44	12.44	1.28	1.585	.75	.05
Group 7	10.56	12.56	1.28	1.585	.75	.05
Group 8	10.89	12.89	1.28	1.585	.75	.05
Group 9	10.96	12.96	1.28	1.585	.75	.05
Group 10	11.12	13.12	1.28	1.585	.75	.05
Group 11	11.30	13.30	1.28	1.585	.75	.05
Group 12	11.79	13.79	1.28	1.585	.75	.05
Group 13	12.75	14.75	1.28	1.585	.75	.05
Group 14	13.24	15.24	1.28	1.585	.75	.05
Group 15	13.52	15.52	1.28	1.585	.75	.05

*See AREA DESCRIPTIONS- following TRUCK DRIVERS' classifications

POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

Group 1: Assistant to Engineer; Elevator Operators; Hydraulic Monitor; Material Loader or Conveyor Operators

Group 2: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Truck Crane Oiler

Group 3: Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator - 1 drum; Slip form Pumps

Group 4: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 5: A-Frame Truck and Tugger Hoist; Fork Lift (construction job site); Kolman Loader and similar; Loader Operator (over 1 cu. yd. to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired Tractor (with attachments, including Backhoe); Small Rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 6: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (Well or Diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's Foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without Dozer

Group 7: Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type shovel or boom attachment, up to and including D-7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 9: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, larger than D-7 or similar)

Group 10: Motor Patrol

Group 11: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 12: Remote Controlled (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 13: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 14: Operator of Helicopter (when used in erection work)

Group 15: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$10.26	$11.76	$1.28	$1.90	$1.00	.14
Group 2	10.61	12.11	1.28	1.90	1.00	.14
Group 3	10.79	12.29	1.28	1.90	1.00	.14
Group 4	10.90	12.40	1.28	1.90	1.00	.14
Group 5	11.36	12.86	1.28	1.90	1.00	.14
Group 6	11.51	13.01	1.28	1.90	1.00	.14
Group 6-A	11.62	13.12	1.28	1.90	1.00	.14
Group 7	11.92	13.42	1.28	1.90	1.00	.14
Group 7-A	11.98	13.48	1.28	1.90	1.00	.14
Group 8	12.04	13.54	1.28	1.90	1.00	.14
Group 9	12.20	13.70	1.28	1.90	1.00	.14
Group 10	12.64	14.14	1.28	1.90	1.00	.14
Group 10-A	13.60	15.10	1.28	1.90	1.00	.14
Group 10-B	14.05	15.55	1.28	1.90	1.00	.14
Group 11	14.21	15.71	1.28	1.90	1.00	.14

*See AREA DESCRIPTIONS - following TRUCK DRIVERS' classifications.

Underground and Shaft Work:

Underground Work: Employees working underground shall receive $.30 per hour in addition to their straight-time hourly wage rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $.50 per hour in addition to their straight-time hourly rates.

POWER EQUIPMENT OPERATORS
HEAVY and HIGHWAY CONSTRUCTION

Group 1: Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Asphalt Plant Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - field; Repairman Tender - field; Chainman; Rodman

Group 2: Boxman, asphalt plant; Air Compressor Operator; Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt palnt continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Truck Crane Oiler (Assistant to Engineer)

Group 3: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper - multiple purpose; Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator - 1 drum Line Master; Slip Form Pumps

Group 4: Batch Operator (asphalt plant); Air Compressor Operator (2 or more compressors); Concrete Conveyor, building site; Lube and Service engineer (mobile and grease rack); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Slurry Seal Machine or similar; Small rubber-tired Tractors; Small self propelled pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

Group 5: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals); Engineer - Locomotive; Forklift (construction jobsite); Gradesetter; Kolman Loader (and similar); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired Trenching Machine; Small rubber-tired tractor (with attachments, including Backhoe); Small Tractor with boom; Surface Heater (self-propelled); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 6: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Conveyor or Concrete Pump, truck or equipment mounted, boom length to apply; Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marine); Drilling Machine Operator (Well or Diamond); Drilling and Boring Machinery, horizontal and vertical (not to apply to waterliners, wagon drills, or jack hammers); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High-lift (40 ft or similar); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor combination; Pavement Breaker, truck mounted, Compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Pipeline Wrapping Machine Perault, CRC, or similar types); Self-propelled Compactor with or without Dozer; Slusher Operator; Tractor Operator (Sheep's Foot and Compacting Equipment); Tractor Compressor Drill Combination; Trenching Machine

Group 6-A: Side Boom Operator; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or Boom attachment, up to and including D-7 or similar); Instrumentman

Group 7: Asphalt Plant Engineer; Chicago Boom (including Stiff Leg ang Sheer Pole); Combination Backhoe and Loader (3/4 cu. yds. or over M.R.C.); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Domor Loader and Adams Elegrader; Engineer, Crushing Plant; Euclid Loader and similar types; Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Koehring Skooper (or similar)(up to 5 cu. yds. struck M.R.C.); Mechanical Trench Shield; Mucking Machine Operator Rubber-tired Scrapers (under 35 cu. yds. struck M.R.C.); Saurman type Dragline (under 5 cu. yds. struck M.R.C.); Self-propelled Boom-type Lifting device (center mount) (10-ton capacity or less M.R.C.); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Tri Batch Paver; Tunnel Mole (or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 7-A: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or boom attachment, larger than D-7 or similar)

Group 8: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity)

Group 9: DW-10, 20, etc. (Tandem Scrapers); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Pre-stress Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck M.R.C.); Self-propelled boom-type lifting device (center mount)(over 10 tons); Tractor (Tandem Scrapers); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.)(up to and including 5 cu. yds. struck M.R.C.)

Group 10: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar) (5 cu. yds. and over struck M.R.C.); Multiple-propulsion Power Unit Earthmovers (up to and including 75 cu. yds. struck M.R.C.); Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck M.R.C.); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over struck M.R.C.); Slip Form Paver (concrete or asphalt); Sub-grader (automatic Sub-grader - Fine Grader, CMI or similar); Tandem Tractors; Tower Cranes Mobile

Group 10-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu.yds. M.R.C.); Multi-purpose Earthmoving Machines (2 or more scrapers)(over 75 cu. yds. struck M.R.C); Power Shovels and Draglines (over 7 cu. yds. struck M.R.C)

Group 10-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 11: Cranes over 125 tons

POWER EQUIPMENT OPERATORS: Steel Erection	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.19	$1.28	$1.90	$1.00	.14
Group 2	11.60	1.28	1.90	1.00	.14
Group 3	12.72	1.28	1.90	1.00	.14
Group 4	12.88	1.28	1.90	1.00	.14
Group 4-A	13.21	1.28	1.90	1.00	.14
Group 5	13.76	1.28	1.90	1.00	.14
Group 6	14.23	1.28	1.90	1.00	.14
Group 6-A	14.88	1.28	1.90	1.00	.14
Group 7	16.03	1.28	1.90	1.00	.14
Piledriving					
Group 1-A	10.68	1.28	1.90	1.00	.14
Group 1-B	11.05	1.28	1.90	1.00	.14
Group 1-C	11.28	1.28	1.90	1.00	.14
Group 2-A	11.28	1.28	1.90	1.00	.14
Group 2-B	12.10	1.28	1.90	1.00	.14
Group 3	12.43	1.28	1.90	1.00	.14
Group 3-A	12.90	1.28	1.90	1.00	.14
Group 4	13.50	1.28	1.90	1.00	.14
Group 5	13.69	1.28	1.90	1.00	.14
Group 6	14.93	1.28	1.90	1.00	.14

Underground and Shaft Work:

Underground Work: Employees working underground shall receive $.30 per hour in addition to their straight-time hourly rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $.50 per hour in addition to their straight-time hourly rate.

POWER EQUIPMENT OPERATORS
Steel Erection

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Rodman, Chainman; Assistant to Engineer (Truck Crane Oiler)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6)(structural steel or tank erection only); Deck Engineer; Forklift; Instrumentman; Signalman (using mechanical

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual purpose A-frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons M.R.C. or less); Single drum Hoist; Self-propelled Boom-type lifting device (center mount)(10 ton capacity or less M.R.C.); Tugger Hoist; Overhead Cranes (15 tons M.R.C. or less)

Group 6: Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Two or more drum Hoist; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); Overhead Cranes (over 15 tons M.R.C.)

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1: Deckhand; Fireman; Oiler

Group 1-A: Compressor Operator

Group 1-B: Truck crane Oiler (Assistant to Engineer)

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machine (powered other than by electricity)

Group 3: A-Frames; Deck Engineer; Forklift Operators; Self-propelled boom-type lifting device (center mount)(10-ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operator of Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler)(up to and including 1 cu. yd. rating); Truck Crane Operator (up to and including 25 tons) (hoisting material only); Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Self-propelled boom-type lifting device (center mount)(over 10 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS*	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$10.025	$11.525	.98	$1.14	$1.00	.10
Group 2	10.075	11.575	.98	1.14	1.00	.10
Group 3	10.125	11.625	.98	1.14	1.00	.10
Group 4	10.15	11.65	.98	1.14	1.00	.10
Group 5	10.225	11.725	.98	1.14	1.00	.10
Group 6	10.25	11.75	.98	1.14	1.00	.10
Group 7	10.30	11.80	.98	1.14	1.00	.10
Group 8	10.40	11.90	.98	1.14	1.00	.10
Group 9	10.45	11.95	.98	1.14	1.00	.10
Group 10	10.475	11.975	.98	1.14	1.00	.10
Group 11	10.55	12.05	.98	1.14	1.00	.10
Group 12	10.575	12.075	.98	1.14	1.00	.10
Group 13	10.65	12.15	.98	1.14	1.00	.10
Group 14	10.70	12.20	.98	1.14	1.00	.10
Group 15	10.75	12.25	.98	1.14	1.00	.10
Group 16	10.95	12.45	.98	1.14	1.00	.10
Group 17	11.025	12.525	.98	1.14	1.00	.10
Group 18	11.125	12.625	.98	1.14	1.00	.10
Group 19	11.15	12.65	.98	1.14	1.00	.10
Group 20	11.20	12.70	.98	1.14	1.00	.10
Group 21	11.26	12.75	.98	1.14	1.00	.10
Group 22	11.35	12.85	.98	1.14	1.00	.10
Group 23	11.45	12.95	.98	1.14	1.00	.10
Group 24	11.47	12.97	.98	1.14	1.00	.10
Group 25	11.70	13.20	.98	1.14	1.00	.10
Group 26	11.95	13.45	.98	1.14	1.00	.10

*See AREA DESCRIPTIONS following TRUCK DRIVERS' classifications

TRUCK DRIVERS

Group 1: Chauffeurs

Group 2: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (Pickup); Gas Station Attendants

Group 3: Water, Fuel and Oil Trucks (less than 1200 gallons)

Group 4: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity less than 10 tons)

Group 5: Washers

Group 6: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(less than 8 yds.); Water, Fuel and Oil Trucks (1200 gallons to less than 2500 gallons)

Group 7: Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity 10 tons and less than 15 tons)

Group 8: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(8 yds. and less than 14 yds.); Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity 15 tons and less than 20 tons); Water, Fuel and Oil Trucks (2500 gallons to less than 4000 gallons); Sweeper or Vacuum Truck

Group 9: Construction Job Serviceman, Fork Lift, Straddle Truck; Warehouseman (Counter Clerk)

Group 10: Transit Mix Trucks (less than 8 cu. yds.); Concrete Pumping Trucks

Group 11: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(14 yds. and less than 35 yds.); Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-trailer (carrying capacity 20 tons and over)

Group 12: Transit Mix Trucks (over 8 cu. yds. to 14 cu. yds.)

Group 13: Tireman and Greaser

TRUCK DRIVERS (Cont'd)

Group 14: Water, Fuel and Oil Trucks (4000 gallons to less than 6000 gallons)

Group 15: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(35 yds. and less than 55 yds.)

Group 16: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarocker and Dumpcrete)(55 yds. and less than 75 yds.); Water Fuel and Oil Trucks (6000 gallons to less than 10,000 gallons); Oil Spreader Operator (on single man operation where Boot Man is not required)

Group 17: Teamster, driving two horses

Group 18: Teamster, driving three or more horses

Group 19: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarocker and Dumpcrete)(75 yds. and less than 95 yds.)

Group 20: Water, Fuel and Oil Trucks (10,000 gallons to less than 15,000 gallons)

Group 21: Teamster Mechanics, Teamster Welder

Group 22: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(95 yds. and less than 105 yds.)

Group 23: Water, Fuel and Oil Trucks (15,000 gallons to less than 20,000 gallons)

Group 24: Dump Trucks - water level capacity (bottom, end and side)(including Dumpster Trucks, Turnawagons, Turnarockers and Dumpcrete)(105 yds. and less than 130 yds.), (all 130 cu. yds. and over to be paid one-half cent ($0.005) per cu. yd. capacity per hour in addition to rate for 105 yds. and less than 130 yds.)

Group 25: Water, Fuel and Oil Trucks (20,000 gallons to less than 25,000 gallons)

Group 26: Water, Fuel and Oil Trucks (25,000 gallons and over)

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)).

AREA DESCRIPITONS
Laborers
(Heavy and Highway Construction)

Power Equipment Operators

Truck Drivers

AREA 1: All area included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24, south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning. Commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 as defined.

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Racine
DECISION No.: WI80-2083 DATE: Date of Publication
Supersedes Decision No. WI78-2149, dated November 13, 1978 in 43 FR 52672
DESCRIPTION OF WORK: Building and Residential Construction

	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		.05
BRICKLAYERS & STONEMASONS	11.55	.70	.80	.60	.07
CARPENTERS (West of Hwy. #75)					
Carpenters and Soft Floor Layers	12.82	.60	.80		.13
Millwrights	13.42	.60	.80		.13
Carpenters (Residential) West of Hwy. #75	9.46	.60	.80		.13
CARPENTERS (Balance of County)					
Carpenters and Soft Floor Layers	11.50	.60	.85		.05
Millwrights	11.76	.60	.85		.05
Piledrivermen	11.58	.60	.85		.05
CEMENT MASONS	10.61	.60	.85	.50	.01
ELECTRICIANS (Burlington)					
Electricians (Burlington)	12.85	.55	5%	7%	.50%
Residential	8.35	.55	3%	7%	3/4%
ELECTRICIANS (Balance of county)	14.89	.55	3%		] 3/4%
ELEVATORS CONSTRUCTORS:					
Constructors	13.24	1.045	.69	a+b	.03
Helpers	9.27	1.045	.69	a+b	.03
Helpers (Prob.)	50JR				
IRONWORKERS	12.06	1.30	2.50	1.21	.15
LABORERS:					
Laborers	9.45	.60	.85	.50	
Air Tool Operators (Jackhammer)	9.77	.60	.85	.50	
Mason Tender, Mortar Mixer and Plasterers' Tender	9.58	.60	.85	.50	
Vibrator Operator	9.58	.60	.85	.50	
	9.77	.60	.85	.50	
PAINTERS:					
Brush	10.45	.60	1.05		.05
Structural Steel	10.60	.60	1.05		.05
Spray	11.20	.60	1.05		.05
PLASTERERS	11.10	.60	.85		
PLUMBERS AND STEAMFITTERS	12.58	.60	.85	.99	.02
ROOFERS	11.12	.60	.55		
PILEDRIVERMEN (West of Hwy, #75)	12.97	.60	.80		.13

DECISION No. WI80-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$11.74	.60	.09	1.15	.09
TERRAZZO WORKERS	12.01	1.20	1.20	.50	.19
TILE SETTERS	10.08	.70	.80	.60	.07

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% per hour of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% per hour of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

DECISION No. WI80-2083

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
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

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge, Operator and Traveling Crane (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoist, Tractor, or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (Over 40 h. p.), Pulldozer, 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 Cypsum Pumps, Tractor, Pulldozer, 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 Auto Breaker, Hydro-Hammer(Small), Booms and Sweeper, Hoists (Mucker) Stump Chipper (Large), Boats, Safety Work, Barges and Launch)

GROUP V - Shoulding 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 15 KW, Pumps over 3", Augers (vertical and Horizontal), Combination Small Equipment Operators; 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 Helper, Conveyor, 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)).

SUPERSEDEAS DECISION

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY80-5129

DATE: Date of Publication

Supersedes Decision No. WY80-5119 dated June 13, 1980, in 45 FR 40467

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
ASBESTOS WORKERS	$13.64	.75	$1.37		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:*					
Area 1	12.20	.60	.30		.05
Area 2	11.90	.60	.30		.10
CARPENTERS:					
Carpenters	10.59	.70	.65	.75	.17
Piledrivermen	10.84	.70	.65	.75	.17
CEMENT MASONS:					
Cement Masons	12.15	.55			.05
Working on Swinging Stage or temporary platform over 20 ft. high	12.65	.55			.05
Composition material, epoxy	12.65	.55			.05
ELECTRICIANS:*					
Area 1:					
Electricians	13.50	.75	3%+.50		3/4of 1%
Cable Splicers	13.75	.75	3%+.50		3/4of 1%
Area 2:					
Contracts $150,000 and under:					
Electricians	10.30	.72	3%+.50		3/4of 1%
Contracts over $150,000:					
Electricians	11.70	.72	3%+.75		3/4of 1%
ELEVATOR CONSTRUCTORS	11.71	.895	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.56	a	.025
IRONWORKERS:					
Structural; Ornamental; Reinforcing	13.00	.90	1.45		.15
MARBLE, TILE and TERRAZZO WORKERS:*					
Area 1	11.10	.45	.30		
MILLWRIGHTS	12.41	1.00	.85		.14

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush and Roller	$12.11	.75	$1.15		.07
Spray, Swing Stage and Hazardous	12.71	.75	1.15		.07
Sandblaster (interior)	14.03	.75	1.15		.07
Paperhanger	12.71	.75	1.15		.07
Drywall Finisher	12.36	.75	1.15		.07
Finishers (machine)	12.71	.75	1.15		.07
PLUMBERS: Steamfitters:*					
Area 1:					
Zone 1	10.17	.80	.75	1.50	.18
Zone 2	11.02	.80	.75	1.50	.18
Zone 3	11.94	.80	.75	1.50	.18
Zone 4	13.16	.80	.75	1.50	.18
Zone 5: (Footnote "b"):					
General contractors $2,500,000.00 or less	10.17	.80	.75	1.50	.18
General contracts over $2,500,000.00	10.97	.80	.75	1.50	.18
Area 2:					
Zone 1	14.03	.90	1.10	2.00+c	.30
Zone 2	14.90	.90	1.10	2.00+c	.30
Zone 3	15.75	.90	1.10	2.00+c	.30
Zone 4	17.06	.90	1.10	2.00+c	.30
Zone 5	18.05	.90	1.10	2.00+c	.30
ROOFERS	11.03			2.00	
SHEET METAL WORKERS:*					
Area 1	10.92	.41	1.10		.02
Area 2	11.63	.53	.41		.08
SPRINKLER FITTERS	13.61	.85	1.20		.08
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

*See AREA and ZONE Descriptions - Page 3

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: A through F, and the Friday after Thanksgiving Day.
b. Use only in the Cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Spring within a 5 mile radius from the Post Office.
c. Paid Holiday: D-Labor Day

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Goshen, Laramie and Platte Counties
Area 2: Converse, Natrona and Niobrara Counties

ELECTRICIANS:
Area 1: Goshen, Laramie, Niobrara and Platte Counties
Area 2: Converse and Natrona Counties

MARBLE, TILE and TERRAZZO WORKERS:
Area 1: Converse, Natrona and Niobrara Counties

PAINTERS:
Area 1: Converse, Natrona and Niobrara Counties

PLUMBERS; Steamfitters:
Area 1: Goshen, Laramie and Platte Counties:

Zone 1: 15 miles radius from Cheyenne Post Office
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 15 miles radius beyond Zone 2
Zone 4: Jurisdiction beyond Zone 3

Area 2: Converse, Natrona and Niobrara Counties:

Zone 1: 10 miles radius from Post Office in Casper
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 20 miles radius beyond Zone 2
Zone 4: 40 miles radius beyond Zone 3
Zone 5: Jurisdiction beyond Zone 4

SHEET METAL WORKERS:
Area 1: Converse, Natrona and Niobrara Counties
Area 2: Goshen, Laramie and Platte Counties

LABORERS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.28	.55	.50	$1.00	.05
Group 2	8.53	.55	.50	1.00	.05
Group 3	8.78	.55	.50	1.00	.05
Group 4	8.78	.55	.50	1.00	.05
Group 5	8.83	.55	.50	1.00	.05
Group 6	8.68	.55	.50	1.00	.05
Group 7	8.58	.55	.50	1.00	.05
Group 8	8.43	.55	.50	1.00	.05
Group 9	9.18	.55	.50	1.00	.05

LABORERS
BUILDING CONSTRUCTION

Group 1: General Laborers: All work pertaining to pre-watering, pre-irrigation, and pre-wetting); Axeman and Hand Faller; Bin Wall Installer; Bituminous Curb Builder; Burner (Cutting Torch); Car and Truck Loader; Carpenter Tender; Cement Mason Tender; Chuck Tender; Concrete Saw; Concrete Worker (wet or dry) (curing and drying); Creosote Material Handler (corrosive enamel or its equal); Dumpman; Erector and Installer (includes the installation of all fences, right of way, median fences, snow fences, etc., guard rails, section rails, reference posts, guide posts, signs and right of way markers); Form Setter (paving); Form Setter Tender (paving); Form Stripper; General Laborer; Gunnite Tender; Hand Operated Vibrator Roller; Jackhammer and Pavement Breaker; Landscaper; Landscaper Tender; Material Handler (lumber, rods, cement, concrete); Mechanical Form Cleaner; Mortar Man on Stone Riprap; Nozzleman (air and water); Operator or pnuematic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated, culvert pipe multi-plate, sectional plate and similar type); Pipe Setter Tender (corrugated); Pipe Setter Tender (non-metallic); Pipe Wrapper; Powderman Tender; Power Saw Operator (clearing); Power type Concrete Buggy (push); Power type Concrete Buggy (ride); Riprap Man; Rodman; Sandblaster Pot Tender; Shoring and Lagging Open Ditch; Signalman, grade, concrete, etc.; Scissorman or Hopper Man; Stake Jumper for equipment; Tar and asphalt Pot Tender; Toolroom Man; Unloading and packing of steel rods and mesh (reinforcing); Vibrator - concrete; Watchman and Flagman and Heat Tender and Pilot car Operator; Wrecking and Demolition Crews

Group 2: Semi-Skilled Laborers: Asphalt Raker and Tamper; Gunnite Nozzleman; High Scaler (using air tool from bos'n chair, swing stage life belt, or block and tackle, shall receive 20¢ per hour more than the classified rate); Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker);

Group 3: Drilling - Blasting: Powderman and Blaster; Wagon Drill, Air Track, Diamond and other drills for blasting powder or grouting

Group 4: Tenders: Fork Lift Operator (masonry work); Hodcarriers; Mason Tenders; Plasterer Tenders; Scaffold Builders; Terazzzo Tenders; Tile Setter Tenders

[FR Doc. 80-28702 Filed 9-18-80; 8:45 am]
BILLING CODE 4510-27-C

LABORERS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 5: Tunnel - Underground: Drill Doctors; Finishers; Form Setters and Movers; Jackhammer Man; Machine Man; Miners (Drillers); Piling and/or Caisson Workers; Rebar Man; Spaders; Steelman; Timberman; Tuggers

Group 6: Chuck Tender; Nipper; Top Man or Top Lander

Group 7: Brakeman; Vibrator Man

Group 8: Bull Gang Laborer; Mucker

Group 9: Shifter

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)

federal register

Friday
September 19, 1980

Part III

Department of Health and Human Services

Alcohol, Drug Abuse, and Mental Health Administration and Food and Drug Administration

Methadone for Treating Narcotic Addicts; Joint Revision of Conditions for Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

21 CFR Part 291

Drugs Used for Treatment of Narcotic Addicts; Joint Revision of Conditions for Use

CROSS REFERENCE: For a rule issued jointly by the National Institute on Drug Abuse; Alcohol, Drug Abuse, and Mental Health Administration; and the Food and Drug Administration that revises certain conditions for use of methadone for treating narcotic addicts, see FR Doc. 80-28799 appearing below.

BILLING CODE 4110-88-M

Food and Drug Administration

21 CFR Part 291

[Docket No. 77N-0252]

Joint Revision of Conditions for Use of Methadone for Treating Narcotic Addicts

AGENCIES: Food and Drug Administration and National Institute on Drug Abuse.

ACTION: Final Rule.

SUMMARY: This rule, issued jointly by the two agencies, revises the conditions for use of methadone for treating narcotic addicts. The Narcotic Addict Treatment Act of 1974 requires the Department of Health and Human Services to establish requirements for practitioners conducting maintenance or detoxification treatment with narcotic drugs. These requirements are the minimum standards for the appropriate methods of professional practice in the medical treatment of narcotic addiction with methadone.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT:
For the Food and Drug Administration: Edwin V. Dutra, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.
For the National Institute of Drug Abuse: Nathan M. Kight, National Institute on Drug Abuse, Alcohol, Drug Abuse and Mental Health Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4877.

SUPPLEMENTARY INFORMATION: Section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513) requires that the Department of Health and Human Services (HHS) determine the appropriate methods of professional practice for medical treatment of various classes of narcotic addicts. The Narcotic Addict Treatment Act of 1974 (Pub. L. 93-281) was enacted by Congress as a means to ensure that only bona fide narcotic addicts are admitted to maintenance or detoxification treatment, that they receive quality care, and that illicit diversion is limited. Pub. L. 93-281 includes the requirement that practitioners who dispense narcotic drugs for maintenance or detoxification treatment of narcotic-dependent persons must meet the standards issued under authority of Pub. L. 91-513.

The methadone regulations in 21 CFR 291.505 are the only regulatory standards published under HHS authority that concern the use of a narcotic drug to maintain or detoxify narcotic addicts. They were originally published by FDA under section 505 (the new drug provisions) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and section 4 of Pub. L. 91-513. This final rule is published jointly for HHS by the Food and Drug Administration (FDA) and the National Institute of Drug Abuse (NIDA) under section 4 of Pub. L. 91-513 and Pub. L. 93-281.

In the **Federal Register** of April 29, 1976 (41 FR 17926), FDA proposed to revise the methadone regulations on physiologic dependence of patients, physician staffing, and urine testing. In the **Federal Register** of October 28, 1977 (42 FR 56897), FDA and NIDA jointly proposed a rule to revise the conditions for use of methadone in maintenance and detoxification treatment. The October 28, 1977 proposal included significant revisions to the methadone regulations in addition to those published on April 29, 1976. This document summarizes and evaluates the comments to both proposals. Numerous comments were received on them from nearly every section of the drug abuse treatment community, including patients, counselors, practitioners, other treatment program staff, State authorities, Federal agencies, hospitals, and professional associations.

A summary of the substantive comments and the agencies' responses appear below.

Note.—The proposed revisions published in the **Federal Register** of October 28, 1977 were separated into 13 categories. The same format is used in this final rule.

Also, this final rule contains numerous editorial revisions, intended to make the regulations clearer and more understandable, consistent with the objectives of Executive Order 12044, "Improving Government Regulations."

FDA advises that the program forms required to be completed by treatment programs and then submitted to HHS and the State authority repeat, although not necessarily verbatim, the requirements found in § 291.505 (a) through (j) (21 CFR 291.505 (a) through (j)). Therefore, to avoid repeating similar requirements, this final rule does not contain a reprinting of the required program forms. Instead, § 291.505(k) lists the required forms and states who must complete them, where they must be submitted, and where they may be obtained. Another editorial revision made to this final rule is the consistent use of the work "record" instead of the words "chart" and "clinical record." These minor changes do not affect the substantive requirements of the rule.

Minimum Standards for Admission

1. Several comments objected to establishing any specific length of time of addiction as a prerequisite to maintenance treatment. They contended that the decision to admit a patient to maintenance treatment should be entirely within the discretion of the treating physician. Each patient is different, and chronology of addiction is impossible to prove. Thus, a required length of addiction history is an arbitrary and unnecessary restriction on a physician's clinical judgment. Current physiological addiction should be the sole requirement. Many comments stated that the length of addiction history should be reduced even more—from the proposed 1 year to 6 months or less—because some persons can become addicted in less than a year and should not be denied treatment, forcing them to search out illegal drugs to satisfy their needs until an arbitrary time has passed.

Any length of time selected could be termed arbitrary. FDA and NIDA believe a 1-year history of addiction is a necessary minimum standard to ensure that only truly dependent persons are admitted to maintenance treatment. However, the minimum standards for admission (including the definition of a 1-year history) and the exceptions to the minimum admission criteria, taken together, are flexible enough not to unnecessarily restrict a physician's clinical judgment.

2. Several comments said that the current requirement of a 2-year addiction history should be retained because relaxing the rule to 1 year would make it too easy to qualify for maintenance treatment and thus would weaken the motivation for some patients to detoxify. The comments contended that patients with a 1-year addiction history can easily detoxify or

become drug free if the incentive to do so is not removed by a liberal 1-year rule. It is nearly impossible to become addicted in 1 year on the poor quality heroin available on the streets today; thus, a 2-year addiction history rule is necessary to guard against addicting a nonaddicted person to methadone by admitting the person into maintenance treatment.

FDA and NIDA do not agree that the 2-year rule should be retained. It was dropped from the proposal to make the methadone regulations more appropriate for all maintenance patients and to provide more flexibility in clinical standards. These needs still exist. The 1-year rule will not interfere with attempts at drug-free treatment or attempts at detoxification. The regulations do not preclude a program from requiring these attempts for patients who satisfy the minimum standards for admission to maintenance treatment but who would benefit more from other kinds of treatment. Thus, for patients who could detoxify easily and patients who are not truly addicted, treatment other than maintenance treatment may and should be employed. Also, a State methadone authority or an individual treatment program may, if it believes it necessary, set more rigid admission standards including a 2-year or longer addiction history.

3. Several comments in support of a 1-year addiction history suggested that additional requirements are necessary. For example, a patient should be required to try to detoxify or to make some other "real attempts" at becoming drug free, or agree to a goal of short-term maintenance, or have a positive urine test before maintenance treatment because 1 year of mere episodic use of a narcotic is required as opposed to 1 year of continuous use. Including episodic use in the definition will result in persons not addicted to heroin becoming unnecessarily addicted to methadone from maintenance treatment because using heroin episodically does not result in addiction. Another comment stated that the 1-year rule is too vague and it would enable occasional users of narcotics to be admitted into maintenance treatment easily. For example, a doctor can conclude there is sufficient evidence of addiction based upon mere episodic use and signs of old needle marks without signs of withdrawal.

FDA and NIDA believe that additional requirements are not necessary to support the minimum admission standards. The minimum standards for maintenance treatment include the requirements of a 1-year history of addiction and, in most cases, current physiologic dependence. Patterns of narcotic use, like episodic and continuous use, can be helpful in assessing the history of addiction and at times be of benefit in helping to determine current physiologic dependence. However, episodic use alone does not satisfy the admission criteria. Section 291.505(d)(3)(i) states clearly that an applicant accepted for admission to maintenance treatment must be also currently physiologically dependent. It is the current physiologic dependence and 1-year history of addiction that satisfies the requirement.

To require a positive urine test would not necessarily assure the existence of current physiologic dependence. Although it is unlikely, it is possible to have a positive urine test and not be currently physiologically dependent. Conversely, it is possible for a person to be dependent on narcotic drugs and have a negative urine test for opiates. Therefore, FDA and NIDA believe that the results of the urine tests should be used as a part of an evaluation in deciding whether to admit a patient but that a positive urine result not be a prerequisite for admission to treatment.

4. One comment asked FDA and NIDA to be specific and clearly define "most of the year." Another comment suggested replacing the phrase in § 291.505(d)(3)(i) "for most of the preceding year" with the phrase "for more than 6 months of the preceding year." Finally, some comments requested the rule state clearly that the factors in § 291.505(d)(3)(i)(*c*) are not requirements but merely factors to be considered in determining current physiologic dependence and that a patient with a 1-year addiction history does not automatically qualify for maintenance treatment.

FDA and NIDA believe the examples in § 291.505(d)(3)(i)(*b*) explain adequately what is meant by "most of the year." A more specific definition would reduce the flexibility this rule intends to give clinicians. The factors listed in § 291.505(d)(3)(i)(*c*) are not requirements but are recommendations which will help a physician to determine whether a patient is currently physiologically dependent. The regulation is revised to clarify this point. Also, just because a patient qualifies for maintenance treatment under the minimum standards does not necessarily mean that maintenance treatment is indicated and that the patient must be admitted.

Exceptions to Minimum Admission Criteria

5. Several comments objected to the exception for persons in penal or chronic care institutions. Some of the objections were: Proof of current addiction should be required because of these persons are able to remain drug free or unaddicted for up to 6 months, they do not belong in maintenance treatment, which is designed to treat persons currently addicted to narcotics. The same admissions standards should apply to all because there is no valid reason to treat those persons who happen to spend some time in a penal or chronic care institution differently from anyone else. If a person who happens to spend more than a month in a penal or chronic care institution is to be treated differently than a person who has not, the regulation should state that after the person is in the institution for a certain length of time the exception would no longer apply. As proposed, this exception would allow a person who is drug free for years in an institution to qualify for maintenance treatment immediately after discharge or release from the institution.

FDA and NIDA agree that, as a general rule, proof of current addiction is necessary to ensure against admitting unaddicted persons into maintenance treatment. Certain situations, however, justify exceptions to this general rule. For example, some persons, although physiologically addicted for at least 1 year in the past, may not be able to document current physiological addiction because their residence in a penal or chronic care institution has effectively precluded their obtaining drugs and not because they were able to remain drug free voluntarily. Because these persons who have a 1-year history of addiction before incarceration or institutionalization are likely to return to drug use upon release from an institution, the methadone regulations have long provided a means for them to enroll in a maintenance program and obtain treatment without forcing them to become physiologically readdicted on illicit drugs. Under the current regulations these persons have only 14 days to enroll for treatment (7 days before or 7 days after release from an institution). This final rule merely gives them a longer time (14 days before release or 6 months after release) to help them assure themselves that they can remain drug free voluntarily in their new environment. The longer time will lessen the need for them to decide hastily to enroll in a maintenance program or to return to the use of illicit drugs if their attempt to remain drug free fails. The

opinion of many experts is that persons with a predetention history of addiction who are going to return to illicit drug use will do so within 6 months after release or discharge.

FDA and NIDA agree that the rule would have allowed a person who remained drug free for several years in an institution to be eligible for maintenance treatment upon release. They do not agree, however, that the exception should no longer apply merely because a person has been in an institution for a certain length of time. FDA and NIDA believe that the exception should apply if the person would have been eligible for treatment before incarceration or institutionalization and if the treatment is medically justified. The phrase "if the program physician finds maintenance treatment to be medically justified" was inadvertently omitted from the proposed rule. That phrase, which is included in the exceptions for the pregnant patient and the previously treated patient, is now included in the penal or chronic care exception of this final rule. This revision will help ensure that only persons who meet the criteria in § 291.505(d)(3)(iii) and who are most likely to return to drug use and only those for whom such treatment is medically justified in the judgment of the program physician are eligible for maintenance treatment under the exception.

6. Several comments objected to requiring residency of 1 month or longer in a penal or chronic care institution to make the exception operational and also objected to the 6-month cutoff point, stating that no time limit should be set.

A person who has not been institutionalized for 1 month or longer should have little difficulty proving current physiologic dependence; however, as more time passes such documentation may become impossible. The impossibility stems not from the person's ability to remain drug free voluntarily but from the inability to obtain drugs while institutionalized. Also, persons who were not eligible for maintenance treatement before residing in a penal or chronic care institution should not be eligible for maintenance treatment any more than persons not institutionalized. The 6-month cutoff point is based on the expert opinion (discussed in the response to comment 5 above) that a person who remains unaddicted voluntarily for more than 6 months is less likely to become readdicted.

7. Some comments questioned the reasoning for a 6-month cutoff point for the penal or chronic care exception, while a 2-year cutoff point applies for the exception for previously treated patients. These comments stated that the rationale for both exceptions is the same, and the cutoff point should be the same. One comment suggested rewording the sections to provide that current physiological dependence is not a requirement for admission to maintenance treatment for anyone if it can be shown that the eligibility requirements had been met within the 2 years before the date of application for admission. Another comment suggested a similar rewording but would limit the time to 6 months.

FDA and NIDA believe the available data in the literature suggest that previously treated maintenance patients who return to drug use after voluntary detoxification do so within 2 years, while it is the consensus of expert opinion that the institutionalized care person who returns to drug use is likely to do so within 6 months. Thus, although the rationale for the two exceptions is similar, the consensus of expert opinion supports the different cutoff points. Also, for the reasons discussed in the response to comment 6 above, FDA and NIDA do not agree that, as a general rule, because a person can show that the minimum standards for eligibility for admission to maintenance treatment were met in the immediate past, that person should be considered eligible now for admission without proof of current physiological addiction.

8. One comment said if the rationale for expanding the time of the exception for institutionalized persons from 1 week to 6 months is to give the person an adequate period in which to adjust to a changed environment and to gain reassurance that the change can occur without drugs, then it seems inconsistent to provide this same person with the opportunity for admission to maintenance treatment before release, i.e., before there is a change in environment.

The exception was established also to give an eligible person the opportunity to enroll in maintenance treatment within 14 days before release because it is recognized that some persons cannot voluntarily remain drug free for any length of time without treatment. Thus, treatment is available for persons for whom it is indicated. Also, the exception gives the patient, the institution, and the treatment program adequate time to make a smooth transition from the institution to the treatment program.

9. Several comments objected to the provision excepting pregnant women from the minimum criteria. They cited a variety of reasons: A pregnant woman not currently addicted to narcotics should be required to try drug-free treatment before entering maintenance treatment as there is some evidence of danger to the fetus from methadone maintenance. There is no sense in addicting a pregnant patient to methadone if she is not currently addicted to any drug because it would lead to drug-dependent newborns. Pregnant women should be admitted to maintenance treatment only in rare cases and only upon proof of current physiological addiction but without regard to the length of addiction history. A pregnant woman should be required to accept prenatal care and not merely be given the opportunity for it. Methadone use without prenatal care is no better than heroin use without it. One comment said that if programs are required to offer prenatal care to pregnant patients, then Federal funding would be necessary to help finance it. Another comment wanted a provision added that prenatal care need not be offered by the program if the patient is already receiving prenatal care elsewhere.

FDA and NIDA advise that each program and each State authority is free to require attempts at drug-free treatment before admitting a patient into maintenance treatment, notwithstanding that the patient meets the minimum admission criteria of the methadone regulations. Because drug-free treatment may not be indicated for all patients, it should not be a requirement for all patients.

The decision to enter maintenance treatment must be made jointly by the pregnant patient and the treating physician after weighing the benefits and the risks involved, but only if this treatment is medically justified and she has a documented narcotic history, regardless of how long it is. The major concern is the risk associated with a return to illicit narcotic use. Among the major medical complications or risks of illicit narcotic use during pregnancy are such diseases as acute and chronic hepatitis, bacterial endocarditis, and tetanus. The risks of these conditions are reduced when the pregnant addict is admitted to and followed closely in a methadone treatment program.

FDA and NIDA believe it is impossible to compel a pregnant patient to accept prenatal care and that methadone maintenance is preferable to heroin use and the risks associated with its extralegal status—e.g., overdose, withdrawal, intravenous use of nonsterile paraphernalia and unkown adulterants. Thus, it is best not to require a pregnant patient to accept

prenatal care before admitting her to maintenance treatment.

Finally, FDA and NIDA do not believe that an additional provision is necessary regarding the opportunity for prenatal care. Section 291.505(d)(3)(iii)(*b*)(*1*) already states that pregnant patients must be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. Obviously, if a patient is receiving prenatal care the requirement is satisfied without the program's offering its own prenatal care to the same patient. Also, because there are a number of facilities that receive Federal, State, or local funds for prenatal services the agencies do not believe that additional funds specifically earmarked for prenatal care are necessary.

10. One comment objected to the requirement to evaluate a patient's condition 3 months after termination of pregnancy and to document in her record whether she should continue on maintenance or be detoxified. The comment said this decision should be left to the program staff.

Section 291.505(d)(3)(iii)(*b*) merely requires that a determination be made, that it be made within 3 months after termination of pregnancy, and that it be recorded in the patient's record. The decision itself as to the treatment course is left to the clinical judgment of the treating program physician.

11. Several comments objected to the exception for previously treated patients because methadone would be easily accessible, and its availability would encourage episodic use and discourage attempts at remaining drug free. The exception would allow a former maintenance patient to be readmitted into maintenance treatment merely on the fear of using drugs again. Comments further contend that the proposed 2-year time period is unreasonable and that the cutoff period should be 90 days or less.

The regulation now in force requires that a person be physiologically dependent before being readmitted to maintenance treatment. This requirement does discourage some maintenance patients from attempting to detoxify because if they fail to remain drug free after detoxification, they must revert to illicit drug use to qualify for readmission to maintenance treatment. Moreover, available data suggest that 2 years is a critical point of relapse (over 90 percent of patients who return to drug use after detoxification do so within the first 2 years). The agencies believe, therefore, that patients who qualify under the exception will benefit by knowing that if they require additional maintenance treatment, they may obtain it without reverting to illicit drug use.

12. One comment in support of the exception for previously treated patients objected to the 2-year cutoff point as an arbitrary time limit and stated that the program physician should determine whether a former patient in danger of relapse should be readmitted. Another comment supporting this exception believes the requirement of at least 6 months of previous treatment for patients to qualify is an arbitrary time limit.

The 2-year cutoff point is based on the data discussed in the response to comment 11 above. Also, the program physician must find that readmission to maintenance treatment is medically justified and in this sense the readmission is left to the judgment of that physician. Finally, previously treated patients in treatment for less than 6 months do not qualify for readmission under this exception. For the purposes of this exception FDA and NIDA conclude that a patient must have been in treatment for at least 6 months to be considered previously treated because it takes at least that long to engage effectively in the rehabilitation process. Also, in view of the expanded eligibility for readmission, the agencies believe it necessary to impose this minimum period of prior treatment.

13. One comment pointed out a possible inconsistency between the preamble and the proposed rule. The preamble discusses the exception for previously treated patients in terms of patients who had voluntarily detoxified, but the text of the proposed rule did not specify the type of detoxification. This implies that involuntary detoxification would satisfy the rule if the other criteria were met.

The intent of the rule is that former maintenance patients meeting all the criteria under the exception are eligible for readmission to maintenance treatment only if they were voluntarily detoxified. Patients who were involuntarily detoxified or who left treatment against medical advice are not eligible under this exception, and the revised wording reflects this.

14. Several comments objected to admitting persons under 16 years of age to maintenance treatment because persons under 16 should be eligible only for detoxification, and detoxification treatment of these young persons should be conducted away from the "regular" treatment facility to ensure that they never mix with the older patients. One comment wanted clarification of the meaning of the statement "morbidity with heroin is higher than morbidity with methadone." (The statement appeared in the preamble as part of the justification to admit persons under 16 into maintenance treatment.) The comment questioned whether the heroin morbidity rate referred to reflected general rates or those specifically for persons under 16. Several comments said that before patients under 16 are admitted into maintenance treatment, documented failures at drug-free treatment, not merely failure at detoxification, should be required.

Clinical experience shows that detoxification of younger patients has failed often and that they return to the use of heroin, Thus, maintenance treatment may be indicated in certain cases for these younger patients. However, to preclude their indiscriminate admission to maintenance treatment, prior approval is necessary on a case-by case basis from both the appropriate State authority and then FDA. The heroin morbidity rate referred to in the preamble to the proposal of this section is the general rate and not specifically for those under 16, although it is well known that many young teenagers die from heroin overdose. FDA and NIDA agree on the desirability of minimizing contact between younger patients and older ones, but conclude that the issue should be handled at the program level, perhaps through scheduling of appointments for treatment visits.

Finally, requirements that go beyond the minimum standards in these regulations (such as failure at drug-free treatment before admission to maintenance treatment) may be promulgated by a program or a State authority as needed.

15. Two comments said that to account for the "emancipated minor," the final rule should be modified regarding written consent from a parent, legal guardian, or responsible adult designated by the State authority for a patient under 18 years of age prior to admission into maintenance treatment.

FDA and NIDA believe any exception for emancipated minors must be handled at the State level because the legal definition of minor and laws regarding the rights of minors vary from State to State.

Minimum Urine Testing; Uses and Frequency

16. Several comments opposed eliminating all mandatory urine testing because without urine testing it is difficult, if not impossible, to determine whether illicit drug use is occurring and whether take-home patients are taking their methadone. These comments stated that without such accurate information the danger of drug overdose

to methadone patients would increase and proper treatment would become difficult. Another comment suggested that all take-home patients and those patients suspected of illicit drug use have periodic urine tests. One comment suggested that if urine testing is eliminated, then take-home medication should also be eliminated. One comment suggested the proposal be revised to require that all new patients and suspected illicit drug users undergo weekly urine tests until four out of five tests are negative, and for all patients not on a weekly schedule random urine testing quarterly should be required.

One comment stressed that urine testing is the most rational way to monitor and assess a patient's clinical course and without frequent urine testing it is impossible to develop proper treatment plans or measure the relative safety and effectiveness of methadone in programs.

Another comment said the take-home provisions require, among other things, that the program physician, evaluating a patient's responsibility in handling methadone, determine that the potential take-home patient is not currently abusing narcotic and nonnarcotic drugs, including alcohol. This comment suggested that without urine tests there is no objective way to properly and effectively evaluate the patient.

One comment said urine testing plays an important role in patient progress in that it is an effective deterrent against use of other drugs, often helping a patient get past the urge to revert to illicit drug use. Accurate and rapid urine test results are important for certain patients. For these patients urine tests should be conducted on a regular and continuing basis. For other patients, clinical observation by trained program staff may be sufficient to assure the staff that abuse of drugs is not occurring.

One State authority commented that without the benefits of urine testing as a check or control on referral patients, it would have to consider not allowing probationers and parolees into maintenance programs.

One comment stated that a counselor's ability to determine patient behavior would be less efficient in the absence of urine testing because the counselor would be using less reliable, but more time-consuming, techniques. Thus, the comment suggested a higher staffing ratio to compensate.

One comment said that by merely recommending and not requiring frequent urine tests, most programs will collect or test urine samples only from new patients; and although the rule does not prohibit frequent urine tests, most programs will not be able to pay for them because Federal funding only pays for what is required. Thus, the liberal use of urine testing is effectively prohibited unless Federal funds will pay for nonmandated urine tests.

One comment suggested that urine testing for all new patients is necessary and should be required for about the first 3 months or until the new patient is stabilized and has a proper treatment plan established.

Several comments stated that mandatory urine testing is a valuable clinical tool that should not be eliminated merely because some testing laboratories do not provide consistent, high-quality results or because some laboratories delay reporting test results. The comments suggested that there are other solutions to these problems—for example, upgrading the laboratories or recollecting and resubmitting urine samples. One comment suggested that the government publish quarterly the accuracy of testing laboratories used by programs.

One comment stated that urine tests should be required only to confirm clinical observations of illicit drug use and compliance with take-home rules.

After considering carefully each substantive comment about urine testing, FDA and NIDA conclude that some minimum urine testing needs to be required for patients in maintenance treatment programs. They agree partially with those comments that supported the proposal because the current weekly testing may not represent the best use of fiscal resources and at times may adversely affect a patient's progress in treatment and the physician-patient relationship when the results are not accurate. However, the agencies recognize that for some programs urine testing can be a valuable clinical tool to help in developing or reevaluating a treatment plan, in detecting illicit drug use, and in confirming patient responsibility for take-home medication purposes. To reconcile these views, FDA and NIDA are adding to the requirement proposed in § 291.505(d)(4) that: (1) During the first year of maintenance treatment, each patient must have at least eight urine tests; and (2) after the first year of maintenance treatment each patient must have at least quarterly urine tests except that each patient who receives a 6-day take-home supply of medication must have at least a monthly urine test. The required tests must be scheduled randomly at the discretion of the program.

FDA and NIDA believe that the minimum urine testing requirement addresses adequately the issues of diversion, safety, and evaluation discussed above, yet is comparatively inexpensive, provides needed flexibility to practitioners, and interferes minimally with the physician-patient relationship and with a patient's progress in treatment. The final rule is revised accordingly.

As to the reliability of testing laboratories, under § 291.505(d)(4)(i) each testing laboratory selected by a program for urine testing must be in compliance with all applicable Federal proficiency testing and licensing standards as well as with all applicable State standards. Thus, at this time, a publication reporting on laboratory accuracy should not be necessary.

Finally, each State authority may impose requirements on treatment programs within its jurisdiction beyond the minimum standards in the Federal regulations to deal with problems and issues unique to that State. Additional requirements might include, for example, more frequent urine testing as a check or control on patients from penal institutions who are referred to maintenance programs.

17. Several other comments stated that urine testing for various substances, e.g., cocaine, barbiturates, or amphetamines, is useless because few patients use these substances. Another comment stated that an initial screening urinalysis of new patients for use of opiates, barbiturates, amphetamines, cocaine, and other drugs is useless because it will only reveal, as expected, that the new patient uses drugs.

FDA and NIDA do not agree. The urine testing of new patients for the various substances mentioned is intended to help the admitting physician qualitatively distinguish the varied drugs of abuse and confirm his/her clinical impression. We encourage testing for other substances according to local abuse patterns.

18. Many comments objected to the statement that urine test results could not be used to force a patient out of treatment. Several of these comments said that repeated "dirty" urine is proof positive that a patient is using illicit drugs and that treatment is not working. They stressed that repeated violation of program rules must lead to termination from the program because to continue administering methadone to these patients is tantamount to approving their behavior. It also places them in real danger of overdose and possibly death. Another comment said that administering methadone to patients using other drugs would undermine the credibility of the program, interfere with proper treatment, and constitute medical malpractice by the physician. One comment said § 291.505(d)(4)(ii) is

ambiguous because it is not clear whether it prohibits the use of urine test results as evidence of illicit drug use, prohibits the use of urine test results to exclude a patient from treatment because of illicit drug use, or both.

Although repeated "dirty" urine tests may be proof that the current treatment is not working, FDA and NIDA do not agree that this can be the sole criterion for automatically terminating a patient from a maintenance program. The phrase "as the sole criterion" is added to § 291.505(d)(4)(ii) to clarify this point.

19. Another comment said that the terms "presumptive" and "definitive" used in proposed § 291.505(d)(4)(ii) are not readily understood by many people and requested clarification. It recommended that a positive urine test not be required for admission to methadone programs.

A positive urine test is not a requirement for admission to a methadone maintenance program (see the last sentence in § 291.505(d)(3)(i)(*c*)). Although a urinalysis test for drugs is required on admission, conceivably in certain situations a person could experience signs of current dependence, such as withdrawal symptoms, yet have a negative urine test result. The term "presumptive" as used in paragraph (d)(4) means those general testing methods, e.g., immunoassay technique that detect the presence of drugs but identify drugs only by classes such as an opiate or a barbiturate. The term "definitive" as used in that paragraph means general testing methods, such as thin layer chromatography, that may be used to detect the presence of drugs and also identify specific drugs within a class.

20. One commment said that the regulations should be modified to state clearly that the initial screening urinalysis requirement is met if the urine sample is collected before the initial dose of methadone is administered, and that it is not necessary to delay the initial dose until receipt of the results.

Because a positive urine test is not required, FDA and NIDA agree and have revised the regulations accordingly.

21. One comment wanted an explanation of the recommended practice "to collect and analyze urine specimens on a randomly scheduled basis at least monthly."

The phrase, which is in the first sentence of § 291.505(d)(4)(ii), means that although it is not required, it is recommended that programs collect a urine sample from each patient at least once a month and analyze the samples for the cited substances. The date or dates on which the samples are collected each month should be varied to minimize the potential for falsifying the samples.

Patient evaluation; Minimum Admission and Periodic Requirements

22. Several comments suggested that § 291.505(d)(5)(iv), which requires an evaluation of each patient upon admission or readmission, can be interpreted as requiring a psychologist, psychiatrist, or sociological expert to evaluate the patient. They mentioned that an evaluation need not be made by a mental health professional to be proper, and that a trained counselor could adequately conduct an admission evaluation. Many comments said that other admission criteria are vague and certain terms need defining. Some comments asked that "appropriately trained staff member" and "all relevant facts concerning the use of methadone are clearly and adequately explained to the patients" be clearly defined. One comment said that the phrase "the interview be completed upon admission to the methadone program" needs to be more specific (to ensure compliance with § 291.505(d)(5)(iv)(*a*)). Another comment requested a definition for a "periodic treatment plan" and a "primary person." One comment suggested expanding Form FD–2635 to include definitions of these key terms and phrases.

FDA and NIDA do not intend that the admission evaluation interview required by § 291.505(d)(5)(iv)(*a*) necessarily be conducted by a mental health professional and agree that a well-trained program counselor, for example, could conduct the required interview. The regulation is revised accordingly. FDA and NIDA conclude that the terms and phrases mentioned in these comments do not require further clarification because they are already defined in the regulations or their meaning is sufficiently clear in the context in which they are used. For example, the term "primary counselor" is clearly defined in § 291.505(d)(5)(v) as someone whom the person(s) responsible for the program assigns to monitor a patient's progress in treatment. Paragraph (d)(5) contains the time frames within which the required evaluations and assessments must be made.

23. One comment suggested that the initial treatment plan be signed by the patient after he or she reviews it to ensure that the patient and the staff are striving for the same treatment goals. Another comment suggested that § 291.505(d)(5)(v) be modified to merely recommend and not require that a supervisory counselor countersign the initial treatment plan. A comment suggested that there is no purpose in requiring a physician to review a patient's treatment plan annually, but another suggested that the physician review it monthly instead. One comment suggested that the yearly treatment plan evaluation include requiring a physician to justify continuing the patient in maintenance.

FDA and NIDA believe that modifying § 291.505(d)(5)(v)(*a*) as suggested is unncessary. It is not necessary that the treatment plan be signed by the patient as a means of demonstrating agreement to its contents. Patient agreement to a particular treatment course in most areas of medicine is usually obtained in discussions between the physician and the patient. Rarely is such an agreement reduced to writing. However, FDA and NIDA believe that as a recommended practice, each time the treatment plan is evaluated or altered, or both, the patient should be made aware of the changes and why they are being made. The regulation is revised to make this point clear. The supervisory counselor shall countersign the patient's treatment plan to ensure for the record that supervisory staff have reviewed the contents. For the same reason, the treating physician shall review and countersign the patient's treatment plan at least annually. No specific reevaluation requirement is included in the regulations because the question of whether a patient should remain on methadone maintenance treatment should be considered periodically for each patient individually, with the final decision left to the discretion of the program physician.

24. Some comments stated that more than 4 weeks are necessary to develop a proper treatment plan. These comments suggested revising § 291.505(d)(5)(v) by deleting the phrase "or immediately after a patient is stabilized, whichever is sooner." Other comments suggested that the section be revised to require that the initial treatment plan be developed within 14 days of admission to the program.

Most patients can be stabilized on a methadone dose, and an initial treatment plan can be developed for them within 4 weeks after admission to methadone maintenance. For some, however, a longer stabilization period may be needed, and a full 4 weeks may be necessary to develop an initial treatment plan. This might be true for patients admitted under the penal or chronic care exception 14 days before release from the institution. Thus, FDA and NIDA do not agree that § 291.505(d)(5)(v) requires revision; as

written it should accommodate all patients.

25. One comment suggested that the admission evaluation be concerned only with a patient's eligibility for admission to a program and that the psychological and sociological background information be obtained at a later time.

A patient's eligibility for admission is dealt with under the paragraph on minimum standards for admission or the paragraph dealing with exceptions to minimum admission criteria (§ 291.505(d)(3)). The psychological and sociological background of patients is intended to provide a program with information from patients after admission and is needed to develop a proper treatment plan for them.

26. Some comments objected to requiring a treatment plan because the standard for medical records should merely be to reflect what is wrong with the patient and what is being done about it.

In essence, a treatment plan does exactly that—state what is wrong with a patient and what is being done about it. In addition to the purely medical problems a patient brings into a maintenance program, however, the patient often also brings psychosocial, economic, legal, and other problems. Thus, in addition to medical services, the patient may require a comprehensive range of rehabilitative services. The treatment plan is intended as a tool to organize the specific remedial approach which will be used in an attempt to address these specific problems.

27. Several comments agreed that the proposed laboratory tests are necessary, but suggested that they be required instead of only recommended. These comments suggested also requiring a test for hepatitis, a CR test for cancer, and a gonorrhea test for all female admissions. Other comments supported the required laboratory tests as long as they need no be performed before administering the initial methadone dose. These comments said it would be adequate for the tests to be done within a reasonable time, perhaps within 21 days after admission.

From time to time various laboratory tests may be necessary for certain patients but not all. Obviously, any laboratory tests that are only recommended but not specifically required should be conducted only if clinically indicated. The required laboratory tests must be started before the patient receives the initial methadone dose. The patient may receive the initial dose before the results are available and reviewed, but review must be made within a reasonable time. Like the physical examination, in an emergency situation the initial dose of methadone may be given before laboratory tests are reviewed. The regulation is revised to clarify this.

28. One comment objected to requiring any laboratory tests because for some patients they are unnecessary and needlessly expensive and only the treating physician should decide whether to order them. One comment suggested that the serological test for syphilis and the tuberculin skin test be required only if the population in the area of the program suffers from these problems more than the general population. Another comment said that the requirement for a tuberculin skin test should be replaced with a requirement that a patient show proof of a yearly chest x-ray.

In the interest of both the public health and the patient's health, these minimal and basic tests need to be performed on each patient. FDA and NIDA believe that a tuberculin skin test is an economical method of screening treatment program patients. The more expensive chest x-ray or other appropriate tests should be taken only if the skin test is positive.

29. One comment asked whether the medical evaluation in § 291.505(d)(5)(i) must be done before the initial methadone dose is administered to the patient.

The medical evaluation must be done before the patient receives the initial methadone dose (see § 291.505(d)(6)(ii)). The medical director or other authorized physicians within a program are responsible for ensuring that this occurs.

Minimum Program Services

30. Several comments opposed the requirement in § 291.505(d)(6)(i) that programs which do not provide required services at the primary facilities document the existence of formal agreements with other public or private agencies, institutions, or organizations to provide the services. The comments argued that it would often be impossible to comply. Third parties (other agencies, institutions, or organizations) often refuse to enter into formal agreements with methadone programs because Federal funding is not available to pay for the contracts, and the individual programs cannot afford to pay for the contracts themselves. One comment stated that this point is highlighted by the statement that "neither the program nor the hospital must assume financial responsibility * * *." Several other comments opposed the requirement (§ 291.505(d)(6)(iv)) that programs enter into a written agreement with a licensed and accredited hospital to provide emergency care to program patients, pointing out that many of these programs are already "hospital based" and in an emergency the patient would go to the nearest hospital and not necessarily the hospital which has a written agreement with the program.

Based on these comments FDA and NIDA have revised the final regulation by deleting the requirement regarding formal agreements between programs and outside organizations or hospitals to provide services not provided at the primary facility. Instead, these agreements are a recommended practice only. However, each program is required to maintain a written list of organizations or hospitals to which patients are referred for the required services if they are not provided at the primary facility. Also, each patient's record is required to contain specific information about referrals made. The regulation is revised accordingly.

31. Several comments said that the regulations should require or recommend psychiatric services as appropriate, require that each program provide medical and counseling services at other than "normal business" hours (to accommodate employed patients), and require that all program staff who are in direct contact with patients be trained in emergency first aid and cardiopulmonary resuscitation. Another comment requested that more funding be available for both required and recommended services.

FDA and NIDA advise that the suggested requirements are beyond the scope of this rulemaking. Any program or State authority that believes these requirements are necessary may make them. FDA and NIDA do not intend to recommend or require psychiatric services for all patients.

32. One comment stated that the term "services" is too vague and asked exactly what services are required and what is meant by "comprehensive rehabilitative services."

Because the specific type of services necessary may vary with the needs of each patient, the terms are not defined specifically. The determination of services needed must be made individually for each patient based on the clinical judgment of the program staff. "Comprehensive rehabilitative services" are those aimed at correcting a range of problems that narcotic-dependent patients may present. Rehabilitative services may include, for example, vocational counseling and training, job development and placement, legal services, and education.

33. Several comments objected to the requirement that FDA approve any

modification of program services in advance because there could be delays in receiving this approval.

Section 291.505(d)(6)(i)(*d*) merely requires a program to report modification of program services to FDA when the modifications are made. The regulations now specify that prior approval is not necessary in these circumstances.

34. Several comments objected to the requirement that a physician review and countersign work done by a physician's assistant or other health care professional because it would take so much of the physician's time that it would negate the benefit of using health care professionals. One comment objected to this requirement only if the physician's review and countersignature must be completed before the patient receives the initial dose of methadone. Another comment said that a physician should review and countersign only his/her own work.

FDA and NIDA do not agree with this comment because much of a physician's time will be saved if, for example, instead of performing a physical examination and recording the results, the physician reviews and countersigns the record of the health care professional who performed it. The required physician review of the record made by health care professionals must be completed before the patient receives the initial dose of methadone. This review may be done by telephone. But after a physician admits the patient into treatment, the countersignature must be completed and the patient's record dated by the physician within 72 hours.

35. One comment suggested revising the rule to clarify that the medical director must be a licensed physician. The second sentence of § 291.505(d)(6)(ii) requires that the medical director and other authorized program physicians be licensed to practice in the jurisdiction in which the program is located. For clarity, the word "medicine" is inserted in that sentence after the word "practice."

Minimum Staffing Patterns

36. Several comments said that a precise definition of "counselor" is necessary. Several others said that "counselor" must be defined but in general terms. One comment suggested that the regulations outline minimum qualifications and background for treatment program personnel to ensure quality patient care.

Each counselor should be a person qualified by virtue of experience, training, or education to assess the psychological and sociological background of a drug abuser to help determine and implement an appropriate individualized treatment plan for the patient admitted to methadone treatment. FDA and NIDA do not believe, however, that the regulations should outline minimum qualifications for counselors or attempt to define a counselor for methadone treatment programs. Section 291.505(d)(7) requires the person responsible for the program to consider several factors when deciding upon program personnel and staffing patterns. Because the person responsible for a program is ultimately responsible for ensuring quality patient care, FDA and NIDA conclude that no specific requirements beyond those in paragraph (d)(7) should be imposed and that the decision regarding staff should be left to the judgment of the program director.

37. Several comments objected to the ratio of 4 counselors for every 300 patients, suggesting that a ratio of 6, 8, or 10 to 300 would be more appropriate because with only 4 counselors for every 300 patients, patient care would suffer as counselors spend full time on paper work. One comment objected to any minimum staffing ratio because the staffing needs vary from clinic to clinic and because any required minimum would contradict the statement in the preamble that the size of the staff should be determined by the person responsible for the program. One comment suggested that a program be required to have one registered nurse for every 50 patients. A professional organization suggested that each program must have one pharmacist for every 300 patients because pharmacists are familiar with Drug Enforcement Agency regulations and the handling of controlled substances. Another comment said that, as a minimum, each program must have one full-time behavioral science professional responsible for all nonmedical treatment, planning, and services because long-term program success results from addressing the social, vocational, and psychological needs of a patient and a medical doctor is not necessarily the best qualified person to meet these needs. Another comment objected to allowing a health care professional to perform some of the physician's duties, suggesting instead a ratio of one physician for every 300 patients.

FDA and NIDA iterate that, except for the minimum acceptable ratio of counselors to patients, the decision of what staff to employ and in what numbers should be made by the person responsible for the program after that person considers the factors listed in § 291.505(d)(7). FDA and NIDA are persuaded by the comments, however, that the ratio of counselors to patients should be increased to at least 1 to 50. This ratio can be met by a combination of full-time and part-time counselors. For example, in a program for 75 patients, the requirement can be met by maintaining a staff of one full-time and one part-time counselor. The regulation is revised accordingly.

38. One comment suggested that to ensure quality patient care, the health care professional be defined to include only a State-licensed physician, physician's associate, physician's assistant, or nurse practitioner.

Because many States allow health care professionals to perform some functions ordinarily performed by a physician and because the State rules and titles for these persons vary, FDA and NIDA believe that § 291.505(d)(6)(iii), which defines health care professional in general terms, must remain as written.

39. One comment suggested counting the time of health care professionals as a percentage of required physician time, as was proposed in April 29, 1976.

The detailed staffing patterns for physicians and nurses in current § 291.505(d)(4) are eliminated by this final rule. Thus, because there is no requirement as such regarding physician time, there is no need to count the time of health care professionals toward it.

Dosage and Responsibility for Administration

40. Several comments opposed the limitation on the initial dose and total first-day dose of methadone because there is no adequate reason for splitting the first-day dose. Some stated that the regulation is unrelated to actual clinical practice and experience and it unnecessarily restricts a physician's clinical judgment. Others said that if 40 milligrams of methadone is usually necessary to suppress symptoms of withdrawal it makes no sense to split the dose because the effects of a split 40-milligram dose (e.g., two 20-milligram doses) and of a single 40-milligram dose are the same. Several comments stated that the size of the initial dose for a patient depends on the individual patient; thus, the government should not impose across-the-board dose limits. Also, one comment said that 40 milligrams of methadone is needed initially to suppress withdrawal symptoms in detoxification patients and opposed the 20-milligram limit on the initial dose of methadone for these patients.

The most recent clinical experience demonstrates that most patients require an initial dose of between 15 and 30

milligrams of methadone to suppress withdrawal symptoms. Moreover, there have been cases of overdoses resulting from less tolerant narcotic-dependent patients receiving too much methadone initially. For these reasons the initial dose of methadone administered to each patient cannot exceed 30 milligrams. However, some patients may require more than 30 milligrams to suppress withdrawal symptoms. This might be true, for example, of patients who were heavy users of heroin up to the day of admission to maintenance treatment. For such patients the regulations allow up to 10 milligrams more of methadone to be administered 4 to 8 hours after the initial maximum dose. It is conceivable that occasionally more than 40 milligrams of methadone may be required to suppress withdrawal symptoms. The regulations do not prohibit the administration of more than 40 milligrams of methadone to a patient within the first 24 hours if the program physician documents that 40 milligrams of methadone were insufficient to suppress withdrawal symptoms. FDA and NIDA believe that this part of the regulations provides the physician sufficient flexibility to exercise clinical judgment about medication orders and provides sufficient safeguards to lessen the likelihood of accidental overdose.

There is no 20-milligram limit on the initial dose for detoxification. Although 15 to 20 milligrams is the recommended initial dose for detoxification patients, the required upper limits on the initial dose for detoxification patients are the same as for maintenance patients (see § 291.505 (d)(8)(i) and (d)(9)(i)).

41. One comment said that an exception to the dose limit is necessary. Because the first few days are critical in getting the patient to accept treatment from methadone maintenance programs, every effort should be made to make a new patient comfortable by allowing higher doses to those that require it. Another comment said that clinical experience shows a 20-milligram initial dose is adequate. This comment would revise the rule to preclude initial doses larger than 20 milligrams unless an exception is granted on a case-by-case basis.

For the reasons stated in the response to comment 40 above, FDA and NIDA believe that § 291.505(d)(8) is sufficiently flexible on the maximum initial dosage. Thus, the regulation need not be revised to provide for either a specific exception or a different maximum initial dose.

42. One comment agreed with the limitations on initial and first-day dose, but suggested lowering the maximum allowable dose from 100 to 80 milligrams after 6 months of treatment in a maintenance program.

Because each patient is different and may progress in treatment at a different pace, to require a lower maximum dose for all patients in maintenance treatment after 6 months appears unwarranted at this time. The decision as to dosage below the maximum dosage is one that should be made by the treating physician.

43. Several comments did not agree that dosage levels for pregnant patients in maintenance treatment should be as low as possible because some studies show dosage levels are unrelated to pregnancy outcome, e.g., there is no correlation between whether the infant experiences withdrawal and the mother's maintenance level. Other of these comments believed that the use of low doses may encourage pregnant patients to use other drugs which are known to be harmful to a fetus and that the standard for a maintenance dose for a pregnant patient should be a dose sufficient to keep her from wanting or needing other, harmful drugs. Another comment pointed out there is no evidence to show that methadone is harmful to the fetus, but there is clinical experience demonstrating clearly the adverse effects of too low a dose for maintenance patients; thus, dosage levels for pregnant patients should be the same as for other patients.

The numerous published reports in the literature on the effects of methadone (or heroin) on human pregnancy and its outcome are frequently contradictory and confusing—in part, because maternal drug history is often inaccurate and confounded by non-drug-related medical conditions. The requirement to keep the methadone dosage level to pregnant patients to the lowest effective dose results from a balancing of the desire to treat the mother effectively and the desire to protect the fetus from potential adverse effects. The intent is to caution practitioners who administer or dispense methadone to pregnant women to be especially careful not to exceed the minimum dosage level necessary to treat the pregnant patient effectively.

44. One comment said that the government is intruding into the practice of medicine by requiring prior Federal and State approval for doses of methadone larger than 100 milligrams. This comment questioned how a patient who requires over 100 milligrams of methadone should be treated while prior approval is being sought. The comment said the rule must be revised to allow doses of methadone over 100 milligrams if the need is documented by the physician in the patient's medical record. One comment said that requiring justification for doses of 100 milligrams or more would be impractical and asked what is adequate justification under the rule. One comment said that doses between 100 and 120 milligrams are common but that doses over 120 milligrams are rare. Rather than justifying doses of 100 milligrams or more, FDA and NIDA should make 120 milligrams the maximum dose allowed with greater doses reviewed on a case-by-case basis.

Adequate "justification" includes documentation in the patient's records by the treating physician that personal observation, among other things, demonstrated clearly that 100 milligrams of methadone did not suppress withdrawal symptoms or cravings in the patient and that a higher dose was necessary. FDA and NIDA believe that the higher the methadone dose, the greater the risk of diversion. However, the agencies recognize that in certain cases patients may need more than 100 milligrams of methadone to suppress their craving for opiates, i.e., to receive an effective individual dose. Thus, the present requirement was established in an effort to weigh the risks and benefits associated when methadone is administered in doses greater than 100 milligrams. The comments have convinced FDA and NIDA, however, that it may be unwise to require prior approval in each circumstance. Thus, the requirement for prior approval of doses over 100 milligrams of methadone does not appear in the final rule. Instead, the person(s) responsible for the program is required to ensure that the State authority and FDA are promptly notified in writing or by telephone when a patient is administered a dose of methadone larger than 100 milligrams. This notification must be transmitted to the State authority and FDA within 72 hours after the dose is administered. Also, patients receiving more than 100 milligrams daily must ingest the methadone under observation at least 6 days a week.

45. Several comments objected to the provision in § 291.505(d)(9) that only a physician may administer methadone to detoxification patients. These comments believed that, as is the case for maintenance patients, a qualified staff member supervised by a physician is sufficient.

FDA and NIDA agree with this comment and have revised that provision to be consistent with § 291.505(d)(8)(ii), which allows authorized health care professionals to administer or dispense methadone.

46. One comment objected to the requirement that only liquid methadone be used because there is no evidence that use of liquid methadone has prevented diversion. The comment suggested that the use of methadone in tablet form is appropriate.

FDA and NIDA do not agree with this comment. At any rate, it cannot be acted upon in this document because the suggested revision is beyond the scope of this rulemaking.

47. One comment pointed out that the requirement that each daily dose of methadone administered to a patient be recorded daily in the patient's medical record presents a major problem for programs that use a computer for recordkeeping purposes. The comment asked whether the weekly or monthly computer records would satisfy the proposed requirement.

The methadone regulations require that an accurate patient record system be established and maintained. The record system must be traceable to specific patients, and it must show specific dates and quantities of the drugs dispensed. Even a program that uses a computer for keeping records must record the information somewhere at some time for eventual storage in the computer. For dosage information to be accurate and traceable to specific patients, good medical practice dictates that this information be recorded when the dose is dispensed regardless of when it is to be stored in a computer.

48. One comment suggested that § 291.505(d)(8)(i)(*d*) be reworded to clarify that prior approval for doses larger than 100 milligrams of methadone is necessary for all patients and not only new patients.

In the response to comment 44 above, FDA and NIDA explain why prior approval is no longer required.

49. One comment said that there is no reason why a program director need be licensed to practice medicine.

The regulations do not require the program sponsor or program director be licensed to practice medicine. Section 291.505(d)(6)(ii) requires, however, that each program have a medical director licensed to practice medicine in the jurisdiction in which the program is located. FDA and NIDA believe that one who directs the medical affairs of a narcotic treatment program must be a licensed physician.

Maximum Take-Home Medication

50. One comment said establishing a list of criteria for a program physician to consider in evaluating patient responsibility in handling methadone is simplistic and the only criterion should be whether, in the treating physician's clinical judgment, the patient should have take-home medication.

The treating physician must decide if a particular patient benefits from a treatment course that includes take-home medication. However, because methadone is a narcotic subject to abuse if not handled properly by responsible patients under medical supervision, every reasonable precaution must be taken to prevent its potential abuse. Consideration of the criteria listed in § 291.505(d)(8)(iv)(*c*) and enforcement of the take-home requirements in § 291.505(d)(8)(v) help to ensure that take-home medication is given to the patients who not only most benefit from it but who, after careful screening, are also responsible in handling methadone.

51. Several comments stated that reference to financial and family stability should be deleted from the list of criteria because a patient should not be penalized for lack of money or bad family relations. Other comments suggested deleting abuse of alcohol and past criminal activity from the list because many patients do or did have an alcohol problem and many patients do have a criminal record insofar as illicit drug use is concerned. Thus, if these criteria are included, most patients who would benefit from take-home medication are unfairly denied the benefit.

FDA and NIDA do not intend to unfairly deny any patient the benefit of take-home medication. The physician must consider the totality of a patient's experiences before deciding whether the patient can responsibly handle methadone. An adverse finding regarding a single item or combination of items need not mean that take-home medication must be denied to a particular patient.

FDA and NIDA agree that the criteria listed in paragraph (d)(8)(iv)(*c*) should be changed. They have therefore modified references to a patient's background, history, and personal characteristics, the characteristics of his/her community, the patient's past abuse of drugs and alcohol, and financial condition, and the stability of the patient's family relationship. And they have added a provision that consideration be given to whether the rehabilitative benefit to the patient outweighs the potential risks of diversion.

52. Several comments suggested that the program physician's evaluation of the listed criteria include consultation with and consideration of the recommendations of the patient's counselor and any professional staff trained in the behavioral sciences.

Obviously, program staff other than the treating physician should be very knowledgeable about certain of the listed items of information about a patient. For example, the primary counselor who conducts the admission evaluation or the patient's counselor would be most familiar, through daily observation, with the issue of illicit drug use and any serious behavioral problems of the patient. On the other hand, if the patient has had frequent contact with the treating program physician, the physician may be equally or more knowledgeable about these patient problems. Thus, to ensure proper consideration of the listed criteria, the treating physician should consult with appropriate and informed program staff members before determining whether the patient can responsibly handle increased methadone take-home privileges. This was not made clear in the proposed rule. However, the agencies decline to be any more specific in this regulation regarding other professional disciplines with whom the physician should consult. Other than the required minimum staff, each program may have a different staffing pattern based upon patient needs and program resources. Not all programs could comply with a rule requiring a program physician to consult with a behavioral science specialist, for example, before deciding about a patient's take-home privilege. Each program must have a minimum of six counselors for every 300 patients, who will assist in developing and implementing the patient's treatment plan and will monitor the patient's progress in treatment. Thus, this regulation recommends that the program physician consult with those persons before considering the criteria in § 291.505(d)(8)(iv)(*c*). It also recommends that other appropriate staff be included in the consultation. For example, programs that use behavioral scientists would benefit by including them in the consultation. The regulations are revised accordingly to recommend such consultation.

53. Several comments objected to connecting a patient's length of time in treatment to the take-home medication schedule because one factor has nothing to do with the other. Another comment said that the only guide on whether to allow take-home medication should be a patient's progress in rehabilitation and not how long the patient has been in treatment.

Besides being an important element in easing the patients's return to gainful employment, take-home medication is a clinical tool to be used by programs that believe it will enhance a particular

patient's rehabilitation progress. FDA and NIDA believe that for most patients the length of time in treatment and the likelihood of rehabilitation are related. Also, the longer a patient is in treatment the greater the likelihood he or she has of establishing a therapeutic relationship with the counselor and the program and the greater likelihood he or she has of being assessed properly against the criteria listed in § 291.505(d)(8)(iv) (*c*).

54. Several comments objected to the restriction that patients who receive more than 100 milligrams of methodone daily may receive no more than a 1-day take-home supply. They contended that the same criteria for take-home medication should apply to all patients regardless of the size of the methadone dose required to treat them. Patients should not be penalized because they require a large dose of medication. One comment said that the maximum take-home dose should be 60 milligrams per day.

The provisions on the take-home privilege are based upon the recognition that daily attendance at a program facility may be incompatible with gainful employment, education, or responsible homemaking. At the some time, the provisions recognize that diversion may occur when patients take medication from the clinic for self-administration. In the take-home requirements, FDA and NIDA have attempted to strike a balance between the risk of diversion and the benefit of enhancing a patient's progress toward rehabilitation. Because the range of methadone maintenance doses in the country today is generally between 40 and 100 miligrams daily, the general limitation of a 1-day take-home per week for patients who receive more than 100 milligrams of methadone daily is both a necessary and a reasonable precaution against potential safety and diversion problems. (Section 291.505(d)(8)(v)(*b*) does, however, provide for exceptions to the general limitation.)

55. Many comments objected to the provision to allow a patient a 6-day supply of take-home medication because they believe it will cause more diversion of methadone or at least increase the potential for diversion. These comments said that increasing the amount of take-home medication is not in keeping with the data that show a relationship of take-home methadone to diversion, accidental deaths, and adverse reactions.

Some comments said take-home medication should be permitted only in exceptional circumstances like medical emergency or short-term travel, but in no event should it be given to newly readmitted patients. Other comments said that readmitted patients should not be required to wait 3 months before becoming eligible for more than a 1-day supply of take-home medication.

FDA and NIDA do not agree that increased diversion will result from the provision to allow a 6-day supply of take-home medication. The potential diversion issue is addressed in § 291.505(d)(8)(iv)(*c*), which requires a program to screen carefully each patient to determine whether the patient is responsible in handling methadone before it permits or increases take-home privileges. The regulations include provisions which make eligibility criteria for take-home more stringent than the previous "time in treatment" criteria. In addition the regulations require that each patient eligible for take-home consideration demonstrate: (1) Progress in treatment, (2) a need for reduced frequency of clinic visits, and (3) responsibility in handling methadone. Also, take-home privileges must be reduced when there are unexcused program absences. This required take-home screening, which applies to all take-home and not only to 6-day take-home, coupled with specific preadmission screening and individual treatment plan requirements, should reduce potential diversion if the medical director and program staff exercise good clinical judgment and do so diligently. However, because FDA and NIDA agree that the potential for diversion is a major concern, they conclude that additional safeguards regarding the take-home patient are necessary. Additional safeguards are therefore required by § 291.505(d)(8)(v)(*b*). They are intended to help ensure that only the most responsible patient receives a take-home supply of methadone, and they require cancelling or reducing a take-home schedule for a patient who does not prove to be responsible by missing scheduled appointments, for example.

To restrict take-home medication to use in exceptional emergency circumstances would unnecessarily restrict the rehabilitative efforts of patients attempting to become or remain gainfully employed. Moreover, it would deny the use of a clinical tool many drug abuse clinicians believe to be essential in treating narcotic addicts in maintenance programs. These regulations attempt to restrict the take-home privilege only to those patients who have demonstrated responsible behavior.

The readmitted patient, like a newly admitted patient, undergoes a stabilization period upon entering a program. During this period many decisions are made, including development of a treatment plan and the maintenance dosage level for the "new" patient. Also, take-home privileges cannot be expanded until, among other things, a patient demonstrates substantial progress in rehabilitation. Because one measure of progress is the completion of treatment plan goals, the readmitted patient, like a newly admitted patient, may not receive more than a 1-day supply of take-home medication during the first 3 months of treatment. However, this take-home restriction does not apply to a patient who meets the previously treated patient criteria under § 291.505(d)(3)(iii)(*c*).

56. Another comment said the requirement to package take-home medication in child-proof containers must be strictly enforced because there are too many reports of overdose and death to children from methadone found in the home.

FDA and NIDA advise that the methadone regulations already require take-home medication to be packaged in compliance with 16 CFR 1700.14. Also, § 291.505(d)(8)(iv)(*c*) requires that consideration be given to safe storage of take-home medication in the home before a patient may receive the initial or an increased take-home supply of methadone. Programs are encouraged to emphasize these points with their patients constantly.

57. One comment said that an exception to the take-home requirements is necessary for the bedridden patient who is not hospitalized. Another comment suggested a provision to allow all patients take-home medication in extraordinary circumstances such as extended legal holiday weekends, or in emergencies like a flood or severe snowstorm. Another comment suggested adding a provision to the take-home requirements that would allow a State authority to grant exceptions and a provision to require prior approval from a State authority before 6-day take-home is permitted.

Section 291.505(d)(8)(vi) provides for exceptions to the Federal take-home requirements in extraordinary circumstances. However, these exceptions are intended for true emergencies. Although some emergencies like a flood or severe snowstorm may be regarded as exceptional or extraordinary circumstances that warrant an exception, an extended legal holiday is not.

FDA and NIDA do not agree that a specific Federal provision requiring prior approval from the State authority is necessary before 6-day take-home is permitted. A state authority may require prior approval or prohibit take-home medication altogether if it considers it necessary.

58. One comment suggested that each time a patient receives take-home medication, the patient should receive a written statement of the dangers of methadone including the danger to children and others who do not have a narcotic tolerance.

FDA and NIDA advise that upon admission to maintenance treatment, each patient is informed of the specific dangers and adverse results of taking methadone, especially without medical supervision (see Form FD–2635). Also, § 291.505(d)(3)(ii) requires that the person responsible for the program ensure that all relevant facts about the use of methadone are clearly and adequately explained to each patient and that each patient signs Form FD–2635.

59. One comment said that § 291.505(d)(8)(v)(*a*) needs to state clearly that only 1 day of take-home medication is permitted for new patients because it can be interpreted to mean that 2 days of take-home medication during the initial 3 months of treatment is not prohibited.

FDA and NIDA believe that the second and third sentence of that section clearly preclude the suggested interpretation.

60. One comment objected to dropping the requirement that after 2 years of maintenance treatment a patient be evaluated to consider whether he or she should remain in maintenance treatment. The comment stated that such an evaluation should be made periodically.

This requirement was dropped because many people had incorrectly interpreted it to mean that detoxification was required after 2 years. No specific reevaluation requirement is included in the regulations because the question of whether a patient should remain on methadone maintenance treatment should be considered periodically for each patient individually, with the final decision left to the discretion of the physician.

Minimum Standards for Detoxification Treatment

61. Several comments objected to the definition of detoxification, i.e., treatment using methadone for 21 days or less. They maintained that the failure rate of detoxification treatment is high because 21 days is an insufficient time to effectively detoxify most patients. One comment said successful detoxification treatment requires a slow, steady reduction of methadone doses; thus, no time limit should be imposed and the treating physician's clinical judgment should be the only criterion.

The Narcotic Addict Treatment Act of 1974 (Pub. L. 93–281, 21 U.S.C. 802(28)) defines detoxification as "the dispensing, for a period not in excess of 21 days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period." This definition cannot be changed by regulation. However, FDA and NIDA recognize that some patients need more time to detoxify successfully. Detoxification treatment which will take longer than 21 days may easily be accomplished within the framework of these regulations as long as the patient meets the maintenance treatment criteria.

62. Several comments suggested that 1 week between detoxification attempts is too short because patients would lack the incentive necessary to succeed if they know that if they fail they need wait only 1 week to get back into detoxification treatment. Thus, these comments suggested requiring "waiting periods" of 4 weeks to 6 months between detoxification attempts. Another comment said that more than 1 week between detoxification attempts is necessary to allow a counselor adequate time to assess the reason detoxification failed initially and to determine possible ways to avoid failure in later attempts.

The 1-week waiting period between detoxification attempts is not recommended as the waiting period for all patients; for some patients a longer time may be required and is permissible under the regulation. The regulation as written affords clinicians the flexibility necessary to adapt repeated detoxification treatment to a particular patient's needs. At the same time, it establishes a minimum standard to preclude removing all the incentive to succeed in detoxification treatment that a waiting period of less than a week would involve.

Also, FDA and NIDA advise that § 291.505(d)(9)—*Minimum standards for detoxification treatment*—is expanded to show the differences between the minimum standards for detoxification and those for maintenance treatment. The following standards apply to maintenance treatment but not to detoxification because they cannot be accomplished in 21 days or less: Urine testing except for an initial drug screening urinalysis; periodic treatment plan evaluation; those requirements in paragraph (d)(6) except (ii)(*a*) through (*d*), (iii), and (iv). The recommendation that pregnant patients not be detoxified because of the desire to prevent fetal withdrawal symptoms obviously applies only to the detoxification standards.

Use of Methadone in Hospitals

63. One comment stated that the language in § 291.505(f)(2) is confusing and should state simply that an addicted patient who is hospitalized for any reason other than narcotic addiction may be maintained or detoxified on methadone according to the practitioner's clinical judgment.

To limit the wording of § 291.505(f)(2) to that suggested by the comment omits other important information contained in the section, such as that maintenance treatment may be undertaken only by approved programs or what to do if there is no approved program in the area.

Confidentiality of Patient Records

64. One comment asked whether the deletion of the citation to Part 1401 (now Part 2 of Title 42 of the Code of Federal Regulations) means that compliance with Federal regulations on the confidentiality of alcohol and drug abuse patient records is no longer necessary.

That requirement is still in effect, but because of a recodification is now found in 42 CFR Part 2 instead of Part 1401.

Program Forms

65. Several comments said that there is no reason to require each program physician who is licensed to dispense or administer methadone to complete Form FD–2633. They suggested revising § 291.505(k)(2) to require the medical director to complete Form FD–2633 for each physician in the program.

Although the medical director is ultimately responsible for the medical aspects of a program, each physician within a program must complete Form FD–2633 principally to ensure that he or she understands the physician's responsibilities and is familiar with the various requirements and recommendations governing the use of methadone in a treatment program.

66. Several comments pointed out apparent inconsistencies between the minimum standards and the language of the several forms. For example, one comment said that "the formerly treated patient" exception does not appear in the forms but is included in the minimum standards; that Forms FD–2632

and FD–2633 do not include the changes to the admission criteria regarding documentation of current addiction, guidelines for determining a 1-year history, required laboratory tests, required medical services, and treatment plans; that Form FD–2632 in paragraph IX.A.2 says detoxification treatment with methadone may begin when there are significant signs of withdrawal, and that methadone must be administered by the program physician, but the standards require otherwise. The comment suggested that the forms and the minimum standards be the same in content.

FDA and NIDA are revising the forms to be consistent with the requirements and recommendations of the final rule. It is not their intent, however, to repeat verbatim the language of the regulations in each of the forms.

In response to the Public Health Service's substitution of "FDA–" for "FD–" as the prefix for FDA forms, the prefix will be revised accordingly as new forms are printed. After new forms are available, the regulations that reference these forms will be editorially revised to reflect the "FDA–" designation. Existing forms should continue to be used until revised forms are available.

67. Several comments suggested that § 291.505(k)(1) be reworded (FD–2632 paragraph XIII) to state clearly that prior FDA approval is not necessary to change staff members.

Because not all program changes require prior approval from FDA or the State authority, Form FD–2632 is being revised in paragraph XIII by adding to the end of the sentence the words "if prior approval is required" to clarify this point.

68. One comment suggested omitting use of the word "addicts" from Form FD–2632, paragraph VI, and from Form FD–2633, paragraph III, because it is an inappropriate word that should be replaced by the word "patients."

FDA and NIDA agree and are revising the forms accordingly.

69. One comment wanted the phrase in Form FD–2635 "eventual withdrawal from methadone is an appropriate goal" deleted because for some patients it is not an appropriate goal.

FDA and NIDA believe that for many patients eventual withdrawal from methadone is an appropriate goal. However, years of experience with treatment programs suggest that for some patients eventual withdrawal now appears unrealistic. The regulations are revised accordingly to reflect this knowledge.

70. One comment suggested not using the annual report Form FD–2634 because it is unproductive and time consuming, or replacing it with a quarterly report form because it is difficult to compile the information yearly.

Form FD–2634 provides various government agencies with valuable information, including information necessary for proper funding of Federally-sponsored programs. Programs that find it difficult to compile the required information yearly may compile it quarterly and at year's end combine the quarterly reports onto the annual report form and submit the information at that time.

71. Several comments objected to completing Form FD–2636. The methadone regulations require that this form be completed by hospitals receiving methadone for use in maintenance or detoxification treatment. The comments pointed out that no similar form must be completed to receive methadone for other uses, such as analgesia. These comments said that it is unreasonable and unnecessary to require a hospital to complete a form when it receives a drug for a particular use if it is not required for the same drug intended for a different use. These comments also objected to the requirement that a hospital register, especially to stock methadone for one use and not another.

Special registration to dispense a narcotic drug for maintenance treatment or detoxification treatment is required by statute (Narcotic Addict Treatment Act of 1974, Pub. L. 93–281, 21 U.S.C. 823(g)). This special registration is in addition to the annual registration required by the Controlled Substances Act to prescribe or dispense controlled drugs in schedule II, III, IV, or V. Because under the Narcotic Addict Treatment Act of 1974, HHS is responsible for overseeing the treatment of narcotic dependence with narcotic drugs and because the completion of Form FD–2636 by hospitals gives HHS the information to help discharge its responsibility, FDA and NIDA cannot agree that this is an unnecessary and unreasonable regulation.

Miscellaneous Provisions

72. Many comments objected to § 291.505(d)(15)(iii) regarding termination of a patient from the program for recordkeeping purposes if the patient misses appointments for 2 weeks or more without notifying the program. They maintained that the rule would be too harsh, especially as applied to patients who are on a reduced pickup schedule. One comment asked whether a program would be required to repeat all the admission requirements for patients who "return" to a program after termination from the program under § 291.505(d)(15)(iii).

In the agencies' view, the rule as applied to all patients, including those on a reduced pickup schedule, is not overly harsh. A patient who misses this many appointments is probably demonstrating that he or she does not require his or her usual stabilization dose, and, thus, should not receive it for several reasons, including the danger of overmedication and the possibility that the patient is diverting part or all of the methadone he or she receives or that the take-home patient is not responsible in handling any take-home medication.

A patient whose episode of care is terminated under § 291.505(d)(15)(iii) and who returns for care at a later time must be considered a new patient subject to each of the admission and take-home criteria.

73. Several comments objected to the recommendation that an adequate involuntary termination procedure include an opportunity for the patient to contest, in an informal forum, the decision to terminate him or her from the program. They contended that to do so would take away a valuable clinical tool—quick expulsion from the program—because a review process would be very time consuming. Considerable risk to program staff could result from violent patients who may not be barred from treatment while the review process is pending. Also, this rule would require additional Federal funding because most programs cannot pay for the cost of court appeals and potential consequential or incidental damages should it lose on appeal. Another comment suggested that § 291.505(d)(10) be eliminated because the relationship between a physician and a patient does not lend itself to a due process procedure and if a patient does not obey program rules he or she should be removed from the program. Finally, a physician is not required legally or ethically to treat a patient against his or her will. The comment asked whether proposed § 291.505(d)(10) thus means that the government will attempt to force a physician to treat a patient and, if so, how this would be enforced.

The comments have persuaded the agencies not to require each program to establish a written policy regarding involuntary termination from treatment. However, the agencies have included this concept in the final rule as a recommended practice because they believe that for many programs such a policy would aid in assuring a better patient/program relationship in that each patient will know what is expected

of him or her and what they in turn can expect from the program.

Also, § 291.505(d)(10) has been modified to delete the phrase "due process rights of patients," because this has misled readers into believing such "rights" have been established by judicial interpretation of the Constitution. Whether or not the process is Constitutionally guaranteed, FDA and NIDA believe a methadone treatment patient should not be expelled from a program without at least a written statement of the reasons of expulsion, an opportunity to show that those reasons do not apply or are not true, and the opportunity to rebut the expulsion to the program director or to some physician on the program staff who is entitled to admit persons to the program.

This procedure need not preclude quick expulsion of a patient in a program. "Violent patients" who threaten other patients or staff members may be subject to arrest for assault or breach-of-peace as any other citizens, either with or without expulsion. Additional Federal funding will not be made available to pay legal fees or damages for programs' defense of patient expulsions. The agencies agree that any patient who does not follow program rules based on these regulations should be removed from the program, but they are concerned to ensure that any expulsion is based on infraction of a valid rule and not on the whim or prejudice of a program staff member.

74. One comment said that § 291.505(d)(10) is unnecessary because the State of Michigan Department of Mental Health guidelines governing recipient rights are already available. Another comment suggested that the detailes of the due process procedure under § 291.505(d)(10) be published by the Department of Health and Human Services to explain how a program can comply, and further suggested that § 291.505(d)(10) require that a program offer detoxification treatment to a patient before involuntarily discharging him or her from treatment.

Section 291.505(b)(10) is not unnecessary because, although Michigan has developed rules dealing with involuntary termination procedures, not all States have done so. If Michigan's guidelines meet the recommendations of § 291.505(d)(10), programs may use them to satisfy this section. Also, FDA and NIDA believe that it is not necessary to publish departmental guidelines at this time.

75. Several comments suggested that because of new take-home requirements, the methadone regulations should be revised to require program participation in a "multiple enrollment system" similar to the rule in effect in 1972 (see 37 FR 26799; December 15, 1972) to help prevent diversion.

The reasons given for omitting this requirement (see 39 FR 17449; May 16, 1974 and 39 FR 37636; October 23, 1974) are still valid: Potential for inappropriate breaches of confidentiality, and the ability to control the problem at the program level.

76. Several comments said that the rule must be modified to include specific rules or guidelines for the medication of transfer patients, transient patients, and incarcerated patients. In particular, the comments asked for guidelines on the maximum methadone dose to these patients and whether they are eligible for take-home medication.

The suggested modifications for specific rules are beyond the scope of this rulemaking. However, the agencies believe that this rule and the accompanying recommendations accommodate all patients, including the procedures for transferred, transient, and incarcerated patients.

77. Two comments said that the recommendations which appear throughout the proposed rule should be eliminated because monitoring agencies will interpret them as requirements if they are mixed in with the regulations and although the recommendations represent current good medical practice, they may not in the near future because of rapid changes in this field of medicine and because the regulatory process does not lend itself to rapid change. Thus, the comments stated, the recommendations should be removed from the regulations and be included instead in informational brochures published by FDA/NIDA or published in the scientific literature.

The recommendations represent sound medical practice in the safe and effective treatment of narcotic addicts with methadone, and FDA and NIDA urge that they be followed. Federal monitoring agencies will not interpret the recommendations as requirements merely because they are included in the regulations. Each Federal monitor is experienced in drug inspections and investigations, is thoroughly familiar with the current regulations, and is guided by the relevant compliance program guidance manual, which includes explanations of the requirements for treatment programs and of the recent changes in the regulations. To help ensure that the regulations are interpreted correctly, the Federal Government conducts training sessions throughout the country for its inspectors and investigators as well as for other monitoring agencies, including the various State authority personnel.

Because each program must be familiar with the regulations, FDA and NIDA determined to include the recommendations in the regulations to ensure that each program is also familiar with the recommendations. FDA and NIDA will consider publishing informational brochures as a means of supplementing the published regulations and recommendations if the need arises.

78. One comment objected to § 291.505(d)(10)(ii), which states in part that "upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state * * *." It is not good psychologically to have such a patient continue to identify with the treatment clinic environment. Thus, regulations must be promulgated to require programs to develop a means of separating these patients from the peer pressure which exists in the treatment clinic. Another comment questioned how a program could compel such a patient to remain in the program.

The intent of this section is not to compel a patient to remain in a program. Rather, the intent is to recommend that the program-patient relationship continue beyond the time when the patient reaches the drug-free state. Patient participation in a program must be voluntary (see § 291.505(d)(3)(ii)). This recommendation is based on the generally accepted finding that drug abuse often involves psychological as well as physiological problems which must be addressed to obtain total rehabilitation and the fact that pressure to return to drug use exists for some time after voluntary discharge from maintenance treatment. The section is reworded to clarify these points. To require separation of maintenance and detoxification patients from patients who have reached the drug-free state appears unnecessary. Such a rule may be imposed by a program or State if it is needed in that program or State.

79. Several comments objected to all the regulations because they give absolute clinical control to physicians, and no share of clinical control to other professionals such as sociologists, psychiatrists, and psychologists.

FDA and NIDA recognize that the proper treatment of narcotic addicts involves to varying extents, contributions from several of the professional disciplines including sociologists, psychiatrists, psychologists, and physicians. However, this revised regulation constitutes the Secretary's standards under the Narcotic Addict Treatment Act of 1974 and is published, in part, under the authority of section 4 of Pub. L. 91–513 (42 U.S.C. 257a), which concerns the medical treatment of

narcotic addicts. Because these are medical standards, it is both necessary and proper that a physician is given the ultimate responsibility and necessary authority in the treatment of a patient. This approach is not inconsistent with the present philosophy of many methadone treatment programs. Also, the particular drug used in this type of treatment is a narcotic. The ultimate responsibility for its proper use and for the patient's care rests with the person who writes the order to administer or dispense it.

80. One comment said that the entire proposal conflicts with the Federal funding criteria published in the **Federal Register** of May 27, 1975.

FDA and NIDA are unaware of a conflict between NIDA Treatment Services Grants (the former Federal funding criteria) and the requirements contained in this final rule. The criteria in NIDA Treatment Services Grants apply only to programs that receive NIDA grants. The methadone regulations apply to all methadone programs, whether receiving NIDA funds or not. Thus, where the NIDA grant criteria are more restrictive than the methadone regulations, the programs receiving NIDA funds must comply with them. For example, the NIDA grants criteria may require extra services or certain staff qualifications that do not appear in the methadone regulations. Therefore, programs that do not receive NIDA grants need not provide the extra services, but programs that do receive NIDA grants must provide the extra services. Programs in those States where treatment standards have been developed which are more restrictive than the Narcotic Treatment Standards must also comply with the State standards.

81. Several comments opposed the regulations as being too flexible. They said none of the recommended practices will be followed and the stricter regulations (published in 1972) should be reinstated because tighter controls are necessary to deal with unethical programs.

FDA and NIDA should not subject all programs to inflexible standards simply because a few programs are unethical. Unethical programs can be dealt with effectively through strict enforcement of the minimum standards in this rule.

82. One comment suggested that patients with iatrogenic addiction (medically related addiction) should be exempt from the minimum standards and treated as patients with a purely medical problem, and they should not be forced into the environment and culture of the "street" addict.

Such an exemption is best handled on a case-by-case basis under § 291.505(d)(12)—*Exemptions from specific program standards.* Because the number of such patients is relatively small, including a specific exemption for them in the regulations appears unnecessary. Also, any practitioner who wishes to treat such a patient separately may apply to FDA for a one-patient program approval. FDA and NIDA are reexamining this issue, however, in light of the most recent information. If they conclude that a specific exemption is necessay or that standards specifically addressed to this type of patient are desirable, it will appear as a proposed rule in the **Federal Register.**

83. One comment suggested amending the rule to include specific guidelines about the patient's right to treatment and the program's right to refuse treatment.

Section 291.505(d)(3)(v) states "If in the professional judgment of the medical director a particular patient would not benefit from methadone treatment she/he may be refused such treatment even if she/he meets the admission standards." This section is clear and no revision is necessary.

84. One comment said a 1-week notice before inspections is necessary because surprise inspections are unfair.

The comment does not state why an inspection without a 1-week notice is unfair or why an inspection after a 1-week notice would not be unfair. The purposes of an official inspection include the means to determine how a program conducts its normal day-to-day operation. The current procedure accomplishes this purpose, and FDA and NIDA see no good reason to modify it at this time.

85. Several comments said that because more take-home medication is allowed and because there are reports of many deaths related to take-home medication, the label of the take-home bottle should include warnings to help with this problem.

One comment suggested the methadone regulations need to be reorganized to make them easier to read and easier for programs to comply with. It stated the reorganization should be done independently of this final rule, yet in conjunction with a reexamination of the costs to programs to provide all the newly required services to their patients, especially for NIDA-funded programs.

FDA and NIDA advise that they are considering the merit of these suggestions. If the suggested changes are determined to be necessary, they will appear in a future **Federal Register** publication.

86. One comment pointed out that FDA published an announcement in March 1975 that the "emergency treatment situation" would be dealt with in the near future but that this proposed rule does not mention that problem. Another comment stated that it is unrealistic to prohibit emergency room physicians from using methadone in an emergency situation because this prohibition is contrary to both good medical practice and to the regulations of the Drug Enforcement Administration.

Because the Drug Enforcement Administration (DEA) has already issued a regulation about emergency uses of methadone for narcotic addicts by physicians who are not specifically registered to conduct a narcotic treatment program (see 21 CFR 1306.07), FDA and NIDA do not believe a duplicate regulation is necessary. FDA and NIDA will not take action against a physician who is in compliance with the DEA requirements in such a situation.

87. One comment suggested this final rule include informational guidelines regarding what the long-term risks are to patients in maintenance treatment. It suggested that an amended informed consent form include the guidelines. Another comment suggested deleting the requirement that a patient sign a consent form to obtain treatment in a methadone program because consent forms are not required for other medical treatment. The comment contended that methadone maintenance and detoxification treatment are no different from other medical treatment and should not be the exception to the rule.

FDA and NIDA are considering the need to revise Form FD-2635 to include more specific information about the possible risks and complications from the use of methadone. FDA and NIDA cannot agree, however, that the patient should no longer be required to sign the consent form as a prerequisite to admission to a methadone program. Requiring a patient to sign a consent form before treatment is not without precedent in medicine. Also, the consent form for methadone treatment serves several important functions—among them, ensuring that the patient is voluntarily participating in the methadone program and understands the possible risks and complications from the use of methadone.

Bibliography

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2. "Methadone and Pregnancy, Special Bibliographies No. 1," National Institute of Drug Abuse prepared by Student Association

for Study of Hallucinogens under contract No. HSM–42–73–216, September 1974.

3. "Drug Abuse Warning Network Phase VI Report, May 1977–April 1978," Drug Enforcement Administration, National Institute on Drug Abuse, prepared by IMS America under DEA contract No. 77–11.

4. "Symposium on Comprehensive Health Care for Addicted Families and Their Children," Services Research Report, National Institute on Drug Abuse, May 20–21, 1976, New York.

5. "Methadone: The Drug and Its Therapeutic Uses in the Treatment of Addiction," Report of the National Clearinghouse for Drug Information, Series 31, No. 1, July 1974.

6. Davis, Miryam and Betty Shanks, "Neurological Aspects of Perinatal Narcotic Addiction and Methadone Treatment," *Addictive Diseases: an International Journal*, 2(2): 213–226, 1975.

7. "Methadone Data From FDA Approved Methadone Treatment Units," collected in the National Drug Abuse Treatment Utilization Survey, April 1978.

Therefore, under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241 (42 U.S.C. 257a)), the Narcotic Addict Treatment Act of 1974 (sec. 3, 88 Stat. 124–125 (21 U.S.C. 823(g))), and applicable delegations of authority thereunder (37 FR 27646, December 19, 1972; 38 FR 27315–27316, October 2, 1973, and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1)), Part 291 of Title 21 of the Code of Federal Regulations is amended in § 291.505 by revising the section heading, paragraphs (a)(3), (b)(1)(iii), (2)(iii) and (iv), (c)(4)(i) through (iii), and (d)(1), (3)(i) through (v), (4) through (11); by deleting paragraph (d)(3)(vi); by adding paragraphs (d)(14) through (16); and by revising the introductory text of paragraph (f)(1), the introductory text of (f)(2), (f)(2)(i), (vi), (vii), and (viii), (g), (j)(2), and (k) to read as follows:

§ 291.505 Conditions for use of methadone; appropriate methods of professional practice for medical treatment of the narcotic addiction of various classes of narcotic addicts with methadone under section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(a) * * *

(3) "Maintenance treatment" using methadone is the continued administering or dispensing of methadone, in conjunction with provisions of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphinelike drugs, for an individual dependent on heroin. An eventual drug-free state is the treatment goal for many patients; it is recognized, however, that for some patients the drug may be needed for a long period of time.

* * * * *

(b) * * *

(1) * * *

(iii) *Hospital affiliation.* If a program is not physically located within a hospital which has agreed to provide any needed medical care for drug-related problems for the program's patients, it is recommended practice that there be a formal, documented agreement between the program sponsor and a responsible hospital official demonstrating that hospital care, both inpatient and outpatient, is fully available to any patient who may need it for such problems. It is suggested that the program sponsor enter into an agreement with the hospital official to provide general medical care for patients. Neither the program sponsor nor the hospital is required to assume financial responsibility for the patient's medical care.

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(2) * * *

(iii) *Responsibility for patient.* After a patient is referred to a medication unit, the program sponsor retains continuing responsibility for the patient's care. The program sponsor is responsible for ensuring that the patient receives needed medical and social services at least monthly at the primary facility.

(iv) *Services.* Medication units are limited to administering or dispensing medication and collecting urine for urine testing, following the procedures outlined in paragraph (d)(4) of this section. If a private practitioner wishes to provide other services besides administering or dispensing medication and collecting urine samples, she/he must submit an application for separate approval.

* * * * *

(c) * * *

(4) * * *

(i) *Form FD–2632 "Application for Approval of Use of Methadone in a Treatment Program."* This form, required by paragraph (k) of this section, shall be completed and signed by the program sponsor and submitted in triplicate to the Food and Drug Administration and the State authority.

(ii) *Form FD–2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program."* This form, required by paragraph (k) of this section, shall be completed and signed by each licensed physician authorized to administer or dispense methadone and submitted in triplicate to the Food and Drug Administration and the State authority. The names of any other persons licensed by law to administer or dispense narcotic drugs working in the program shall be listed, even if they are not at present responsible for administering or dispensing the drug.

(iii) *Form FD–2634 "Annual Report for Treatment Program Using Methadone."* This form, required by paragraph (k) of this section, shall be completed and signed by the program sponsor for every program over which she/he has responsibility for each calendar year of operation. It shall be submitted in triplicate to the Food and Drug Administration and the State authority on or before January 30 of each year.

* * * * *

(d) * * *

(1) *Description of facilities.* Drug treatment services may be provided only through appropriate drug abuse treatment facilities at site(s) approved by Federal, State, and local authorities. A program is required to have ready access to a comprehensive range of medical and rehabilitative services. The name, address, and description of each hospital, institution, clinical laboratory, or other facility available to provide the necessary services is to be given to the Food and Drug Administration and the State authority. This listing is to include the name and address of each medication unit.

* * * * *

(3) *Minimum standards for admission*—(i) *History of addiction and current physiologic dependence.* (*a*) A person may be selected as a patient for a maintenance program, regardless of age, only if a program physician determines that the person is currently physiologically dependent upon a narcotic drug and became physiologically dependent at least 1 year before admission for maintenance treatment. A 1-year history of addiction means that an applicant for admission to a maintenance program was physiologically addicted to a narcotic at a time at least 1 year before admission to a program and was addicted, continuously or episodically, for most of the year immediately before admission to a program. In the case of a person for whom the exact date on which physiological addiction began cannot be ascertained, the admitting program physician may, in his or her reasonable clinical judgment, admit the person to methadone maintenance treatment, if from the evidence presented, observed, and recorded in the patients record, it is reasonable to conclude that there was physiologic dependence at a time approximately 1 year before admission.

(*b*) Although daily use of a narcotic for an entire year could satisfy the

definition, operationally one might be physiologically dependent without daily use during the entire 1-year period and still satisfy the definition. The following, although not exhaustive, are examples of applicants who would meet the minimum standard of a 1-year history of addiction and who, if currently physiologically dependent on the date of application for admission, would be eligible for admission to a maintenance program:

(*1*) Physiologic addiction began in August 1976 and continued to the date of application for admission in August 1977.

(*2*) Physiologic addiction began in January 1977 and continued until April 1977. Physiologic addiction began again in July 1977 and continued until the application for admission in January 1978.

(*3*) Physiologic addiction began in January 1976 and continued until October 1976. The date of application for admission was January 1977, at which time the patient had been readdicted for 1 month preceding his/her admission.

(*4*) Physiologic addiction consisted of four episodes in the last year, each episode lasting 2½ months.

(*c*) It is recommended practice that in determining current physiologic dependence the physician consider signs and symptoms of intoxication, a positive urine speciman for a narcotic drug, and old or fresh needle marks. Other evidence of current physiologic dependence may be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupilary dilation and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during the initial period of hospitalization or while the person is an out-patient undergoing diagnostic evaluation (e.g., medical and personal history, physical examination, and laboratory studies). Increased body temperature, pulse rate, blood pressure and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely but possible that a person could be currently dependent on narcotic drugs without having a positive urine test for narcotics. Conversely, it is possible that a person could have a positive urine test for narcotics and not be currently physiologically dependent. Thus, a urine sample that is positive for narcotics is not a requirement for admission to detoxification or maintenance treatment.

(*d*) The program physician or an appropriately trained staff member designated and supervised by the physician shall record in the patient's record the criteria used to determine the patient's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate his or her agreement with the evaluation. The final decision for determining physiologic dependence and history of addiction is required to be made by the program physician. Therefore, in the record there is required to be a signed and dated statement by the program physician, which indicates she/he has reviewed all the documented evidence to support a 1-year history of addiction and the current physiologic dependence and that in his or her reasonable clinical judgment the patient fulfills the requirements for admission to maintenance treatment. This review is required to be completed before the initial dose of methadone is administerted.

(ii) *Voluntary participation, informed consent.* The person responsible for the program shall ensure that: Participation in a program is voluntary; all relevant facts concerning the use of methadone are clearly and adequately explained to the patient; all patients, with full knowledge and understanding of its contents, sign the "Consent for Methadone Treatment" form (FD-2635) (see paragraph (k) of this section); for patients under the age of 18, a parent, legal guardian, or responsible adult designated by the State authority (e.g., "emancipated minor" laws) sign the second part of Form FD-2635, "Consent to Methadone Treatment."

(iii) *Exceptions to minimum admission criteria*—(*a*) *Penal or chronic care.* A person who has resided in a penal or chronic care institution for 1 month or longer may be admitted to methadone maintenance treatment within 14 days before release or discharge or within 6 months after release from such an institution without documented evidence to support findings of physiological dependence provided the person would have been eligible for admission before she/he was incarcerated or institutionalized and, in the reasonable clinical judgment of a program physician, treatment is medically justified. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine the findings are required to be recorded in the patient's record by the admitting program physician, or by program personnel supervised by the admitting program physician. The admitting program physician shall date and sign these recordings or review the health-care professional's recordings before the initial methadone dose is administered to the patient. In the latter case, the admitting program physician shall date and sign the recordings in the patient's record made by the health-care professional within 72 hours of administration of the initial methadone dose to the patient.

(*b*) *Pregnant patients.* (*1*) Pregnant patients, regardless of age, who have had a documented narcotic dependency in the past and who may be in direct jeopardy of returning to narcotic dependency, with all its attendant dangers during pregnancy, may be placed on a maintenance regimen. For such patients, evidence of current physiological dependence on narcotic drugs is not needed if a program physician certifies the pregnancy and, in his or her reasonable clinical judgment, finds treatment to be medically justified. Evidence of all findings and the criteria used to determine the findings are required be recorded in the patient's record by the admitting program physician, or by program personnel supervised by the admitting program physician. The admitting program physician shall date and sign these recordings or review the health-care professional's recordings before the initial methadone dose is administered to the patient. In the latter case, the admitting program physician shall date and sign the recordings in the patient's record made by the health-care professional within 72 hours of administration of the initial methadone dose to the patient. Pregnant patients are required to be given the opportunity for prenatal care either by the program or by referral to appropriate health care providers.

(*2*) If a program cannot provide direct prenatal care for pregnant patients in methadone treatment, it shall establish a system of referring them for prenatal care which may be either publicly or privately funded. If there are no publicly funded prenatal referral opportunities, the program cannot provide such services, and the patient cannot afford them or refuses them, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as a part of its counseling service.

(*3*) Counseling records and/or other appropriate patient records are required to reflect the nature of prenatal support provided by the program. If the patient is referred for prenatal services, the physician to whom she is referred is required to be notified that she is in

methadone maintenance treatement, provided that notification is in accordance with the Department of Health and Human Services Confidentiality Regulations (42 CFR Part 2). If a pregnant patient refuses direct treatment or appropriate referral for treatment, the treating program physician should consider using informed consent procedures, e.g., to have the patient acknowledge in writing that she had the opportunity for this treatment but refuses it. The program physician, consistent with the confidentiality regulations, shall request the physician or the hospital to which a patient is referred to provide, following birth, a summary of the delivery and treatment outcome for the patient and offspring. It is recognized that programs often request such information but for a variety of reasons do not always receive a response. In such situations, the program physician shall document in the record that such a request was made.

(*4*) Within 3 months after termination of pregnancy, the program physician shall enter an evaluation of the patient's treatment state into her record and state whether she should remain in the maintenance program or be detoxified.

(*5*) Caution should be taken in the maintenance treatment of pregnant patients. Dosage levels should be maintained at the lowest effective dose if methadone treatment is deemed necessary. It is the responsibility of the program sponsor to ensure that each female patient is fully informed of the possible risks to a pregnant woman or her unborn child from the use of methadone. She is required to be told that safe use in pregnancy has not been established in relation to possible adverse effects on fetal development.

(*c*) *Previously treated patients.* Under certain circumstances a patient who has been treated and later voluntarily detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment, without evidence to support findings of current physiologic dependence, up to 2 years after discharge if the program attended is able to document prior methadone maintenance treatment of 6 months or more, and the admitting program physician, in his/her reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified. For patients meeting these criteria, the quantity of take-home medication will be determined in the reasonable clincial judgment of the program physician, but in no case may the quantity of take-home medication be greater than would have been allowed at the time that person voluntarily terminated previous treatment. Documented evidence of prior treatment and evidence of all other findings and criteria used to determine such findings must be recorded in the patient's record by the admitting program physician or program personnel under supervision of the admitting program physician. The admitting program physician shall date and sign these recordings or review the health-care professional's recordings before the initial methadone dose is administered to the patient. In the latter case, the admitting program physician shall date and sign the recordings in the patient's record made by the health-care professional within 72 hours of administration of the initial methadone dose to the patient.

(iv) *Special limitation; treatment of patients under 18 years of age.* A person under 18 is required to have had two documented attempts at detoxification or drug-free treatment to be eligible for maintenance treatment. A 1-week waiting period is required after a detoxification attempt, however, before an attempt is repeated. The program physician shall document in the patient's record that the patient continues to be or is again physiologically dependent on narcotic drugs. No one under 16 years of age is eligible for methadone maintenance treatment without the prior approval of the Food and Drug Administration and the State methadone authority. This does not preclude a person under 16 years of age who is currently physiologically dependent on narcotic drugs from being detoxified with methadone if it is deemed medically appropriate by the program physician and is done in accordance with paragraph (d)(9) of this section. No person under 18 years of age may be admitted to a maintenance treatment program unless a parent, legal guardian, or responsible adult designated by the State authority (e.g., "emancipated minor" laws) completes and signs consent form, Form FD–2635 "Consent to Methadone Treatment."

(v) *Denial of admission.* If in the reasonable clinical judgment of the medical director a particular patient would not benefit from methadone treatment, she/he may be refused such treatment even if she/he meets the admission standards.

(4) *Minimum urine testing: Uses and frequency.* (i) The person(s) responsible for a program shall ensure that: An initial drug-screening urinalysis is completed for each prospective patient; at least eight additional random urinalyses are performed on each patient during the first year in maintenance treatment; and at least quarterly random urinalyses are performed on each patient in maintenance treatment for more than 1 year, except that a random urinalysis is performed monthly on each patient who receives a 6-day supply of take-home medication. When urine is collected, specimens from each patient are required to be collected in a manner that minimizes falsification. Each urine specimen is required to be analyzed for opiates, methadone, amphetamines, cocaine, barbiturates, as well as other drugs as indicated. Each laboratory selected for or treatment program which performs urine testing is required to be in compliance with all applicable Federal proficiency testing and licensing standards and all State standards regarding such laboratories or treatment programs. Any changes of laboratories used for urine testing must have approval of the Food and Drug Administration. The person(s) responsible for a program shall ensure that urine test results are not used as the sole criterion to force a patient out of treatment but are used as a guide to change treatment approaches. She/he shall also ensure that when urine test results are used, presumptive laboratory results are distinguished from results that are definitive. It is also recommended practice that the person(s) responsible for the program who uses the results of presumptive urinalysis for patient management show evidence of reasonable access to confirmatory laboratory analysis for use on occasions when this is necessary, e.g., for intake urine testing on all prospective methadone patients, for any loss of patient privileges based on urinalysis, and for indicating frequency of use of other drugs not detectable by a screening method.

(ii) It is recommended practice that after the initial drug screening urinalysis, urine specimens for each patient be collected and analyzed on a randomly scheduled basis at least monthly for opiates, methadone, amphetamines, cocaine, and barbiturates, as well as other drugs as indicated. It is recommended practice that more frequent testing for a specific drug(s) and for a specific person occur when clinically indicated as determined by the reasonable clinical judgment of the medical director. It is recommended practice that results of urine testing be used as one clinical tool for the purposes of diagnosis, and in the determination of treatment plans, as well as used as one technique for overall program evaluation by

monitoring patient drug-using patterns before and during treatment.

(5) *Patient evaluation; minimum admission and periodic requirements*—(i) *Minimum contents of medical evaluation.* Each patient is required to have a medical evaluation by a program physician or an authorized health-care professional under the supervision of a program physician on admission to a program. At a minimum, this evaluation is required to consist of a medical history which includes the required history of narcotic dependence, evidence of current physiologic dependence unless excepted by the regulations, and a physical examination, and includes the following laboratory examinations: Serological test for syphilis, a tuberculin skin test, and a urinalysis for drug determination. The physical examination is required to consist of an investigation of the organ systems for possibilities of infectious disease, pulmonary, liver, and cardiac abnormalities, and dermatologic sequelae of addiction. In addition, the physical examination is required to include a determination of the patient's vital signs (temperature, pulse, and blood pressure and respiratory rate); an examination of the patient's general appearance, head, ears, eyes, nose, throat (thyroid), chest (including heart, lungs, and breasts), abdomen, extremities, skin and neurological assessment; and the program physician's overall impression of the patient.

(ii) *Recommended contents of medical evaluation. (a)* It is recommended practice that the following laboratory examinations be conducted for each patient on admission to a program in addition to the required examinations stated in paragraph (d)(5)(i) of this section.

(*1*) Complete blood count and differential;

(*2*) Routine and microscopic urinalysis;

(*3*) Liver function profile, e.g., SGOT and SGPT.

(*4*) When the tuberculin skin test is positive, a chest X-ray or other appropriate tests;

(*5*) Australian Antigen Hb Ag Testing (HAA Testing);

(*6*) When clinically indicated, an EKG;

(*7*) When appropriate, pregnancy test and a pap smear; and

(*8*) Other tests when clinically indicated.

(*b*) When a person is readmitted to a program, it is recommended that the decision determining the appropriate laboratory tests to be conducted be based on the intervening medical history and a physical examination.

(iii) *Recordings of findings.* The admitting program physician or an appropriately trained health-care professional supervised by the admitting program physician shall record in the patient's record all findings from the admission medical evaluation. In each case the admitting program physician shall date and sign these recordings, or date, review, and countersign these recordings in the patient's record to signify his/her review of and concurrence with the history and physical findings.

(iv) *Admission evaluation.* (*a*) Each patient seeking admission or readmission for treatment services is required to be interviewed by a person, e.g., a well-trained program counselor who should be qualified by virtue of education, training, or experience to assess the psychological and sociological background of drug abusers to determine the appropriate treatment plan for the patient. To determine the most appropriate treatment plan for a patient, the interviewer shall obtain and document in the patient's record the patient's history.

(*b*) A patient's history includes information relating to his/her educational and vocational achievements. If a patient has no such history, i.e., she/he has no formal education or has never had an occupation, this requirement is met by writing this information in the patient's history.

(*c*) It is recommended practice that a patient's history include information relating to his/her psychosocial, economic, and family background, and any other information deemed necessary by the program which is relevant to the application or which may be helpful in assessing the resources, e.g., psychological, economic, educational, and vocational strengths and weaknesses, that a patient brings to the treatment setting. It is recommended practice that each program establish its own methods for measuring those strengths and weaknesses to assess the severity of the patient's problem, establish realistic treatment goals, and develop an appropriate treatment plan to achieve these goals. Such assessments should be made on admission or as soon as the patient is stable enough for appropriate interviewing. Treatment plans should reflect individualization geared to the patient's needs.

(v) *Initial treatment plan.* (*a*) A primary counselor is one who is assigned by the program to develop, implement, and evaluate the patient's initial and periodic treatment plan and to monitor a patient's progress in treatment. The name of this counselor is required to be recorded in the patient's record. The initial treatment plan is required to contain realistic short-term goals which are mutually acceptable to the patient and the program. (It is recommended practice that these short-term goals be designed to expect completion within a finite time period, e.g., 90 to 180 days.) It also is required to state the behavioral tasks expected of a patient that are necessary to complete each short-term goal and the medical, psychosocial, economic, legal or other supportive services needed immediately by each patient, including the projected frequency with which these services will be provided. The primary counselor shall record the contents of a patient's initial treatment plan in the patient's record. It is recommended practice that this information be in sufficient detail to demonstrate that each patient has been assessed and that the services provided are based on the patient assessment findings and the available program and community services.

(*b*) It is recognized that patients need varying degrees of treatment and rehabilitative services which are often dependent on or limited by a number of variables, e.g., patient resources, available program and community services. It is not the intent of this regulation to prescribe a particular treatment and rehabilitative service or the frequency at which a service should be offered.

(*c*) Each patient's initial assessment, including the concomitant treatment plan reflecting the short-term mutually acceptable treatment goals, is required to be documented in each patient's record immediately after the patient is stabilized on a methadone dose or within 4 weeks after admission, whichever is sooner. The program supervisory counselor or other appropriate program personnel so designated by the program physician shall review and countersign all the information and findings required by this paragraph (d)(5)(v) of this section to be recorded in each patient's record.

(vi) *Periodic treatment plan evaluation.* (*a*) The program physician or the primary counselor shall review, reevaluate, and alter where necessary each patient's treatment plan at least once each 90 days during the first year of treatment, and then at least twice a year after the first year of continuous treatment.

(*b*) The program physician shall ensure that the periodic treatment plan becomes part of each patient's record and that it is signed and dated in the

patient's record by the primary counselor and is countersigned and dated by the supervisory counselor.

(c) At least once a year, the program physician shall date, review, and countersign the treatment plan recorded in each patient's record and ensure that each patient's progress or lack of progress in achieving the treatment goals is entered in the patient's record by the primary counselor. When appropriate, the treatment plan and progress notes should deal with the patient's mental and physical problems, apart from drug abuse. The treatment plan is required to include the name of and the reasons for prescribing any medication for emotional or physical problems.

(d) It is recommended practice that changes made to a treatment plan be fully explained to the patient.

(6) *Minimum program services*—(i) *Access to a range of services.* (a) A treatment program shall provide a comprehensive range of medical and rehabilitative services to its patients. These services normally should be provided at the primary facility, but if they are not, it is recommended practice that the program sponsor enter into formally documented agreements with other public or private agencies, institutions, or organizations to render these services. Such facilities should be easily accessible to the patient. Also, for pregnant patients in a treatment program who were not admitted under paragraph (d)(3)(iii)(b) of this section, a treatment program shall give them the opportunity for prenatal care either by the methadone program or by referral to appropriate health-care providers. If a program cannot provide direct prenatal care for pregnant patients in methadone treatment, it shall establish a system of referring them for prenatal care which may be either publicly or privately funded. If there is no publicly funded prenatal care available to which a patient may be referred, the program cannot provide such services, and the patient cannot afford or refuses prenatal care services, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as a part of its counseling service.

(b) Counseling records and other appropriate patient records are required to reflect the nature of prenatal support provided by the program. If the program refers a patient for prenatal services, it shall inform the physician to whom she is referred that the patient is in methadone maintenance treatment, provided such notification is in accordance with the Department of Health and Human Service's Confidentiality Regulations (42 CFR Part 2). If a pregnant patient refuses direct prenatal services or appropriate referral for prenatal services, the treating program physician should consider using informed consent procedures, i.e., to have the patient acknowledge in writing that she had the opportunity for this treatment but refuses it. The program physician shall request the physician or the hospital to which a patient is referred to provide, following birth, a summary of the delivery and treatment outcome for the patient and offspring. The information should be obtained in accordance with the Department of Health and Human Service's confidentiality regulations (42 CFR Part 2). If no response is received, the program physician shall document in the record that such a request was made and no response was received.

(c) Caution should be taken in the maintenance treatment of pregnant patients. Dosage levels should be maintained at the lowest effective dose if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to ensure that each female patient is fully informed of the possible risks to a pregnant woman and her unborn child from the use of methadone. The program shall inform each female patient that safe use in pregnancy had not been established in relation to possible adverse effects on fetal development.

(d) Any service not furnished at the primary facility shall be listed when application for approval is submitted to the Food and Drug Administration and the State authority. Modification of any program services is required to be reported to the Food and Drug Administration when these services are added, modified, or deleted.

(ii) *Minimum medical services; designation of a medical director and responsibilities.* Each program shall have a designated medical director who assumes responsibility for administering all medical services performed by the program. The medical director and other authorized program physicians are required to be licensed to practice medicine in the jurisdiction in which the program is located. The medical director is responsible for ensuring that the program is in compliance with all Federal, State, and local laws and regulations regarding medical treatment of narcotic addiction. In addition, the responsibilities of the medical director or other authorized physicians within the program include but are not limited to the following requirements:

(a) Ensuring that evidence of current physiologic dependence, length of history of addiction, or exceptions to criteria for admission are documented in the patient's record before the patient receives the initial methadone dose.

(b) Ensuring that a medical evaluation including a medical history has been taken, and physical examination has been done before the patient receives the initial methadone dose. However, in an emergency situation the initial dose of methadone may be given before the physical examination.

(c) Ensuring that appropriate laboratory studies have been performed and reviewed. However, the initial dose of methadone may be given before the results of the laboratory studies are reviewed.

(d) Signing or countersigning all medical orders as required by Federal or State law. (Such medical orders include but are not limited to the initial medication orders and all subsequent medication order changes, all changes in the frequency of take-home medication, and prescribing additional take-home methadone for emergency situations.)

(e) Reviewing and countersigning treatment plans at least annually.

(f) Ensuring that justification is recorded in the patients's record for reducing the frequency of clinic visits for observed drug ingesting, providing additional take-home medication under exceptional circumstances or when there is physical disability, or prescribing any medication for physical or emotional problems.

(iii) *Use of health-care professionals.* Although the final decision to accept a patient for methadone treatment may be made only by the medical director or other designated program physician, it is recognized that physicians can train program personnel to detect and document narcotic abstinence symptoms and that some jurisdictions allow State-licensed or certified health-care professionals, e.g., physician's assistants, nurse practitioners, to perform certain functions—record medical histories, perform physical examinations, and prescribe, administer, or dispense certain medications—that are ordinarily performed by a licensed physician.

(a) These regulations do not prohibit licensed or certified health-care professionals from performing those functions in narcotic treatment programs if it is authorized by Federal, State, and local laws and regulations, and if those functions are delegated to them by the medical director.

(b) If a health-care professional performs the functions, e.g., determines current physiological dependence and length of history of addiction, that the physician is required by these

regulations to perform, the physician shall review, sign, and date any resulting comments and evaluations written by the health-care professional before the initial methadone dose may be administered to the patient.

(c) When a physician is not available on site to review, sign, and date the comments and evaluations written by the health-care professional, the required physician review may be made by telephone and the initial dose of methadone may be administered to the patient on the physician's oral order. In such cases the health-care professional shall document in the patient's record that no physician was available on site, that the physician review was done by telephone, and that the initial dose of methadone was administered to the patient on the physician's oral order. Also, the physician shall, within 72 hours of this telephone procedure, date and sign the comments and evaluations written by the health-care professional in the patient's record.

(iv) *Emergency or other medical services.* It is recommended practice that each program enter into a written agreement with a licensed and accredited hospital in the community for the purpose of providing necessary emergency, inpatient, and ambulatory care for program patients. Neither the program sponsor nor the hospital is required to assume financial responsibility for the patient's medical care.

(v) *Vocational rehabilitation, education, and employment.* (a) Each program shall provide opportunities directly, or through referral to community resources, for patients who either desire or have been deemed by the program staff to be ready to participate in educational job-training programs or to obtain gainful employment as soon as possible. Each program shall maintain a list of references that may be used for referral purposes if rehabilitative activities are not provided directly. The references are required to include the opportunities for vocational training, education, and employment as well as the community resources that may be available to provide assistance for such activities.

(b) The patient's needs and readiness for vocational rehabilitation, education, and employment are required to be evaluated and recorded in the patient's records during the preparation of the initial treatment plan and reviewed and updated as appropriate in subsequent periodic treatment plan evaluations. It is recognized that some patients are either not ready for, or not in need of, these services. A statement to this effect in the patient's record will suffice to meet the requirement in this paragraph (d)(6)(V). For patients who are deemed ready for and referred for such services, a program staff member designated and supervised by the admitting program physician shall document in the patient's record the type of referral needed and the patient's progress. The patient's progress at the referral agency should be periodically updated.

(7) *Minimum staffing patterns*—(i) *Program personnel.* The person(s) responsible for a program shall determine program personnel requirements after considering the number of patients who are vocationally and educationally impaired; the number of patients with significant psychopathology; the number of patients who are also nonnarcotic drug or alcohol abusers; the number of patients with behavioral problems in the program; and the number of patients with serious medical problems.

(ii) *Supportive services.* The person(s) responsible for the program shall take notice, when considering the staffing pattern, that methadone maintenance treatment programs need to establish supportive services in accordance with the varying characteristics and needs of their patient populations. The person(s) responsible for a program shall also take notice of the availability of existing community resources which may complement or enhance the program's delivery of supportive services and then establish a staffing pattern based on a combination of patient needs and available, accessible community resources.

(iii) *Minimum staff.* The person(s) responsible for a program shall ensure that there is a ratio of at least 1 counselor to 50 patients.

(8) *Frequency of attendance: Quantity of take-home medication; dosage of methadone; initial and stabilization*—(i) *Dosage and responsibility for administration.* (a) The person(s) responsible for the program shall ensure that the initial dose of methadone does not exceed 30 milligrams and that the total dose for the first day does not exceed 40 milligrams, unless the program medical director documents in the patient's record that 40 milligrams did not suppress opiate abstinence symptoms.

(b) It is recommended practice that the initial dose of methadone be given in attempts to control or mitigate abstinence symptoms concomitant to withdrawal of narcotic drugs. Currently there is no absolute method available to determine narcotic tolerance levels. Thus, the initial dose is given empirically. Methadone dosages that are less than the patient's current level of narcotic tolerance may result in the patient's experiencing withdrawal symptoms. Dosages sufficiently greater than the current level of narcotic tolerance can result in central nervous system depression, coma, and death. Therefore, it is important that the initial dose be adjusted individually to the narcotic tolerance of the patient. If the patient has been a heavy user of heroin up to the day of admission she/he may require an initial dose of 15 to 30 milligrams with additional smaller increments 4 to 8 hours later. It is recommended practice that if the patient enters treatment with little or no narcotic tolerance (e.g., recently released from jail or using poor quality heroin), the initial dose be one-half these quantities. If there is any doubt, the smaller dose should be used initially and the patient kept under observation; if the symptoms of abstinence are distressing, an additional 5- to 10-milligram dose should be administered as needed. Subsequently, the dosage should be adjusted individually as tolerated and required. The stabilization dose frequently, but not necessarily, is higher than the dose needed to reduce withdrawal severity. The usual range of methadone maintenance dosages in the country today is between 40 and 100 milligrams daily.

(c) A licensed physician shall assume repsonsibility for the amounts of methadone administered or dispensed and shall record, date, and sign in each patient's record each change in the dosage schedule.

(d) The administering licensed physician shall ensure that a daily dose greater than 100 milligrams is justified in the patient's record and that a daily dose greater than 100 milligrams of methadone is not given to a patient admitted to a program after November 18, 1980, without notifying both the State methadone authority and the Food and Drug Administration within 72 hours after the dose is given to the patient. Notification shall be deemed accomplished if if is mailed, telephoned, or otherwise transmitted within the 72-hour period.

(e) It is recommended practice that the responsible physician regularly review each patient's dosage level, carefully considering either increasing or decreasing the dosage as indicated. It should be noted that according to the official labeling, therapeutic doses of meperidine have precipiated severe reactions in patients currently receiving monoamine oxidase inhibitors or those who have received such agents within 14 days. Similar reactions have not yet been reported with methadone, but if

the use of methadone is necessary in such patients, it is recommended that a sensitivity test be performed in which repeated small incremental doses are administered over the course of several hours while the patient's condition and vital signs are under careful observation. Likewise, physician should also be aware that according to the official labeling, concurrent administration of rifampin may possibly reduce the blood concentration of methadone to a degree sufficient to produce withdrawal symptoms. The mechanism by which rifampin may decrease blood concentrations of methadone is not fully understood, although enhanced microsomal drug-metabolized enzymes may influence drug disposition.

(ii) *Authorized dispensers of methadone; responsibility.* Methadone may only be administered or dispensed by a practitioner licensed under the appropriate State law and registered under the appropriate State and Federal laws to order narcotic drugs for patients, or by an agent of such a practitioner, supervised by and under the order of the practitioner. This agent is required to be a pharmacist, registered nurse, or licensed practical nurse, or any other health-care professional authorized by Federal and State law to administer or dispense narcotic drugs. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed, and the licensed practitioner shall record and countersign all changes in dosage schedule.

(iii) *Form.* Methadone may be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form when the attending physician judges it advisable. Although tablet, syrup concentrate or other formulations may be distributed to the program, all oral medication is required to be administered or dispensed in a liquid formulation. The dosage is required to be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion and to be packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Take-home medication is required to be labeled with the treatment center's name, address, and telephone number. Exceptions may be granted when these provisions conflict with State law with regard to the administering or dispensing of drugs.

(iv) *Maximum take-home medication; evidence in support of a finding of responsibility in handling methadone and frequency of take-home medication.* (*a*) Take-home methadone may be given only to a patient who, in the reasonable clinical judgment of the program physician, is responsible in handling methadone. Before the program physician reduces the frequency of a patient's clinical visits, she/he or a designated staff member shall record the rationale for the decision in the patient's clinical record. If this is done by a designated staff member a program physician shall review, countersign, and date the patient's record where this information is recorded. Take-home methadone may be dispensed solely in an oral/liquid form so as to minimize potential for abuse and is required to be packaged in accordance with the Poison Prevention Packaging Act (Pub. L. 91–601, 15 U.S.C. 1471 *et seq.*).

(*b*) It is recommended practice that the liquid vehicle be nonsweetened and contain a preservative so that the program may instruct patients to keep take-home methadone out of the refrigerator to try to minimize the likelihood of accidental overdoses by children or fermentation of the vehicle.

(*c*) The program physician shall consider the following in determining whether, in his/her reasonable clinical judgment, a patient is responsible in handling methadone.

(*1*) Absence of recent abuse of drugs (narcotic or nonnarcotic), including alcohol;

(*2*) Regularity of clinic attendance;

(*3*) Absence of serious behavioral problems at the clinic;

(*4*) Absence of known recent criminal activity, e.g., drug dealing;

(*5*) Stability of the patient's home environment and social relationships;

(*6*) Length of time in methadone maintenance treatment;

(*7*) Assurance that take-home medication can be safely stored within the patient's home; and

(*8*) Whether the rehabilitative benefit to the patient derived from decreasing the frequency of clinic attendance outweighs the potential risks of diversion.

(*d*) It is recommended practice that when considering patient responsibility in handling methadone, the program physician either consult with, or consider the recommendations of, the staff members most familiar with the relevant facts about the patient involved.

(v) *Take-home requirements.* The requirement of time in treatment is a minimum reference point after which a patient may be eligible for take-home privileges. The time reference is not intended to mean that a patient in treatment for a particular time has a specific right to take-home medication. Thus, regardless of time in treatment, a program physician may, in his/her reasonable clinical judgment, deny or rescind the take-home medication privileges of a patient.

(*a*) In maintenance treatment it is required that a patient be under observation while ingesting the drug daily or at least 6 days a week, for at least the first 3 months. If, in the reasonable clinical judgment of the program physician, a patient demonstrates satisfactory adherence to program rules for at least 3 months, substantial progress in rehabilitation and responsibility in handling methadone (see paragraph (d)(8)(iv)(*c*)(*1*) through (*8*) of this section), and his/her rehabilitative progress would be enhanced by decreasing the frequency of his/her clinic attendance, the patient may be permitted to reduce his/her clinic attendance for drug ingestion under observation to three times weekly. Such a patient may receive no more than a 2-day take-home supply of methadone. If, in the reasonable clinical judgment of the program physician, a patient demonstrates satisfactory adherence to program rules for at least 2 years from his/her entrance into the program, substantial progress in rehabilitation and responsibility in handling methadone (see paragaph (d)(8)(iv)(*c*)(*1*) through (*8*) of this section), and his/her rehabilitative progress would be enhanced by decreasing the frequency of his/her clinic attendance, the patient may be permitted to reduce his/her clinic attendance for drug ingestion under observation to twice weekly. Such a patient may receive no more than a 3-day take-home supply of methadone. If, in the reasonable clinical judgment of the program physician, a patient has satisfactorily adhered to program rules for at least 3 consecutive years from his/her entrance into the maintenance treatment program, has made substantial progress in rehabilitation, has no major behavioral problems, is responsible in handling methadone (see paragraph (d)(8)(iv)(*c*)(*1*) through (*8*) of this section), and his/her rehabilitative progress would be enhanced by decreasing the frequency of his/her clinic attendance, the patient may be permitted to reduce clinic attendance for drug ingestion under observation to once weekly only if each of the following additional criteria is met: The program physician has written into the patient's record an evaluation that the patient is responsible in handling methadone (paragraph (d)(8)(iv)(*c*)(*1*) through (*8*) of this section); the patient is

employed (or actively seeking employment), attends school, is a homemaker, or is considered unemployable for mental or physical reasons by a program physician; the patient is not known to have abused any drugs including alcohol in the last year; and the patient is not known to have engaged in criminal activity, e.g., drug dealing, in the last year. A patient permitted to reduce clinic attendance for drug ingestion under observation to once weekly, may receive no more than a 6-day take-home supply of methadone.

(*b*)(*1*) If a patient, after receiving a supply of take-home medication, is inexcusably absent from or misses a scheduled appointment with a treatment program without authorization from the program staff, the program physician shall increase the frequency of the patient's clinic attendance for drug ingestion under observation. For such a patient, the program physician shall not reduce the frequency of the patient's clinic attendance for drug ingestion under observation until she/he has had at least 3 consecutive monthly urine tests that are neither positive for morphinelike drugs (except methadone) or other drugs of abuse nor negative for methadone, and until she/he is again determined by a program physician to be responsible in handling methadone (see paragraph (d)(8)(iv)(*c*) (*1*) through (*8*) of this section) and to meet the criteria in paragraph (d)(8)(v)(*a*) of this section).

(*2*) If a patient, after receiving a 6-day supply of take-home medication or other drugs of abuse, has a urine test which is confirmed to be positive for morphinelike drugs (except methadone) or other drugs of abuse nor negative for methadone, the program physician shall place the patient on a 3-month probationary period. If, during this probationary period, the patient has a urine test either positive for morphinelike drugs (except methadone) or other drugs of abuse or negative for methadone, the program physician shall increase the frequency of the patient's clinic attendance for drug ingestion under observation to at least twice weekly. Such a patient may receive no more than a 3-day take-home supply of methadone until she/he has had at least 3 consecutive monthly urine tests which are neither positive for morphinelike drugs (except methadone) or other drugs of abuse nor negative for methadone, and the program physician again determines that the patient is responsible in handling methadone (see paragraph (d)(8)(iv)(*c*) (*1*) through (*8*) of this section) and meets the criteria contained in paragraph (d)(8)(v)(*a*) of this section.

(*c*) In calculating the number of years of methadone maintenance treatment, the period is considered to begin on the first day methadone is administered, or on readmission if a patient has had a continuous absence of 90 days or more. Cumulative time spent by the patient in more than one program is counted toward the number of years of treatment, provided there has not been a continuous absence of 90 days or more.

(*d*) Each patient whose daily dose is above 100 milligrams is required to be under observation while ingesting the drug at least 6 days per week irrespective of the length of time in treatment, unless the program has received prior approval from the State authority and the Food and Drug Administration.

(vi) *Exceptions to take-home requirements.* If, in the reasonable clinical judgment of the program physician:

(*a*) A patient is found to have a physical disability which interferes with his/her ability to conform to the applicable mandatory schedule, she/he may be permitted a temporarily or permanently reduced schedule provided she/he is also found to be responsible in handling methadone.

(*b*) A patient, because of exceptional circumstances such as illness, personal or family crises, travel, or other hardship, is unable to conform to the applicable mandatory schedule she/he may be permitted a temporarily reduced schedule provided she/he is also found to be responsible in handling methadone. The rationale for an exception to a mandatory schedule is to be based on the reasonable clinical judgment of the program physician and shall be recorded in the patient's record by the program physician or by program personnel supervised by the program physician. In the latter situation the physician shall review, countersign, and date the patient's record where this rationale is recorded. In any event, a patient may not be given more than a 2-week supply of methadone at one time.

(9) *Minimum standards for detoxification treatment.* (i) For detoxification from narcotic drugs (not the gradual withdrawal of methadone from patients on methadone maintenance), methadone is required to be administered by the program physician or by an authorized agent of the physician, supervised by and under the order of the physician daily under close observation in reducing dosages over a period not to exceed 21 days. All requirements for maintenance treatment apply to detoxification treatment with the following exceptions:

(*a*) Take-home medication is not allowed during detoxification.

(*b*) A history of 1 year physiologic dependence is not required for admission to detoxification.

(*c*) Patients who have been determined by the program physician to be currently physiologically narcotic dependent may be detoxified with methadone, regardless of age.

(*d*) The recommended initial dose is 15 to 20 milligrams.

(*e*) No urine testing is required except for the initial drug screening urinalysis.

(*f*) The initial treatment plan and periodic treatment plan evaluation required for maintenance patients are not necessary for detoxification patients. However, a primary counselor must be assigned by the program to monitor a patient's progress toward the short-term goal of detoxification and possible drug-free treatment referral.

(*g*) The requirements of paragraph (d)(6) of this section, except (d)(6)(ii)(*a*) through (*d*), (iii), and (iv), do not apply to detoxification treatment.

(ii) A waiting period of at least 1 week is required between detoxification attempts. Before a detoxification attempt is repeated, the program physician shall document in the patient's record that the patient continues to be or is again physiologically dependent on narcotic drugs. The provisions of these requirements, except as noted in paragraph (d)(9)(i) of this section, apply to both inpatient and ambulatory detoxification treatment.

(iii) Detoxification treatment is not recommended for a pregnant patient.

(10) *Discontinuation of methadone use*—(i) *Involuntary termination from treatment.* It is recommended practice that the person(s) responsible for a program develop and post prominently about the program premises at least one copy of a written policy establishing criteria for involuntary termination from treatment. This policy should describe patients' rights as well as the responsibilities and rights of the program staff. At the time a patient enters treatment, an appropriate program staff member designated by the person(s) responsible for the program should inform the patient where the copy of the policy is posted and should inform him/her of the reasons for which she/he might be terminated from treatment, his/her rights under the involuntary termination procedure, and the fact that information about him/her shall be kept confidential in accordance with 42 CFR Part 2.

(ii) *Voluntary withdrawal from methadone use.* As with most types of medical treatment that require chronic daily administration of medication, patients in methadone treatment should be evaluated periodically regarding the risks and benefits of continuing the medication. For some, the eventual withdrawal from methadone is a realistic goal. However, years of experience demonstrate that for others this goal is not yet realistic, even though these patients show vocational, educational, and psychosocial improvement, and are productive members of society. Research and clinical experience have not yet identified all the critical variables that determine when a patient can be successfully withdrawn from methadone and remain drug free. Thus, the determination to withdraw voluntarily from methadone maintenance is empirical and is left to the patient and the reasonable clinical judgment of the physician. Upon reaching a drug-free state, the patient should be encouraged to remain in the program for as long as the program considers it necessary to ensure stability in the drug-free state. The frequency of required program visits for patients for drug-free state may be adjusted at the discretion of the medical director.

(11) *Inspections of programs; patient confidentiality.* A program may be inspected by duly authorized employees of the State authority, and in accordance with Federal controlled substances laws and Federal confidentiality laws by duly authorized employees of the Food and Drug Administration, the Drug Enforcement Administration of the Department of Justice, and the National Institute on Drug Abuse.

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(14) *Research.* When a program conducts research on human subjects or provides subjects for research, there must be written policies and written review to assure the rights of the patients involved. Appropriate informed consent forms are required to be signed by the patient and to be retained in his/her records. All research, development, and related activities in which human subjects are involved that are funded by the Department of Health and Human Service's grants or contracts are required to comply with the Department of Health and Human Service's regulations on the protection of human subjects, 45 CFR Part 46, and confidentiality of information, 42 CFR Part 2. All investigational research involving human subjects conducted for submission to the Food and Drug Administration must be conducted in compliance with 21 CFR 312.1.

(15) *Patient record system*—(i) *Patient care.* The person(s) responsible for a program shall establish a record system to document and monitor patient care. This system is required to comply with all Federal and State reporting requirements relevant to methadone. All records are required to be kept confidential and in accordance with all applicable Federal and State regulations regarding confidentiality.

(ii) *Drug dispensing.* The person(s) responsible for a program shall ensure that accurate records traceable to specific patients are maintained showing dates, quantity, and batch or code marks of the drug dispensed. These records must be retained for a period of 3 years from the date of dispensing.

(iii) *Patient's record.* An adequate record must be maintained for each patient. The record is required to contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which must be reported within 2 weeks to the Food and Drug Administration on Form FD-1639, "Drug Experience Report," any significant physical or psychological disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and is to be so noted in the patient's record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and is to be so noted in the patient's record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress must be recorded in the patient's record(s).

(16) *Security of drug stocks.* Adequate security is required to be maintained over stocks of methadone, over the manner in which it is administered or dispensed, over the manner in which it is distributed to medication units, and over the manner in which it is stored to guard against theft and diversion of the drug. The program is required to meet the security standards for the distribution and storage of controlled substances as required by the Drug Enforcement Administration, Department of Justice (21 CFR 1301.72-1301.76).

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(f) *Conditions for use of methadone in hospitals for detoxification treatment*—(1) *Form.* The drug may be administered or dispensed in either oral or parenteral form (see paragraph (d)(8)(iii) of this section).

(2) *Use of methadone in hospitals*—(i) *Approved uses.* For hospitalized patients, methadone for narcotic addict treatment may be administered or dispensed only for detoxification treatment. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure is no longer considered treatment of the acute withdrawal syndrome (detoxification) but is, rather, considered maintenance treatment. Only approved methadone programs may undertake maintenance treatment. This does not preclude the maintenance treatment of a patient who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his/her stay or whose enrollment in a program which has approval for maintenance treatment using methadone has been verified (see 21 CFR 1306.07(c)). Any hospital which already has received approval under this paragraph (f) may serve as a temporary methadone treatment program when an approved methadone treatment program has been terminated and there is no other facility immediately available in the area to provide methadone treatment for the patients. The Food and Drug Administration may give this approval upon the request of the State authority or the hospital, when no State authority has been established.

* * * * *

(vi) *Inspection.* The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patients will be kept confidential in accordance with confidentiality requirements of 42 CFR Part 2. Records on the receipt, storage, and distribution of narcotic medication are subject to inspection under Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(vii) *Approval of hospital pharmacy.* Application for a hospital pharmacy to provide methadone for detoxification treatment must be submitted to the Food

and Drug Administration and the State authority and approval from both is required, except as provided for in paragraph (h)(5) of this section. Within 60 days after the Food and Drug Administration receives the application, it will notify the applicant of approval or denial or will request additional information, when necessary.

(viii) *Approval of shipments to hospital pharmacies.* Before a hospital pharmacy may lawfully receive shipments of methadone for detoxification treatment, a responsible official shall complete, sign, and file in triplicate with the Food and Drug Administration and the State authority Form FD–2636, "Hospital Request for Methadone for Detoxification Treatment" (see paragraph (k) of this section) and must have received a notice of approval thereof from the Food and Drug Administration.

* * * * *

(g) *Confidentiality of patient records.* (1) Except as provided in paragraph (g)(2) of this section, disclosure of patient records maintained by any program is governed by the provisions of 42 CFR Part 2, and every program must comply with that part. Records on the receipt, storage, and distribution of narcotic medication are also subject to inspection under Federal controlled substances laws: But use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel. In addition to the restrictions upon disclosure in 42 CFR Part 2, and in accordance with the authority conferred by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), every program is authorized to protect the privacy of patients therein by withholding from all persons not employed by such program or otherwise connected with the conduct of its operations the names or other identifying characteristics of such patients under any circumstances under which such program has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of a patient. Programs may not be compelled in any Federal, State, or local civil, criminal, administrative, or other proceedings to furnish such information, but this paragraph does not authorize withholding information authorized to be furnished under 42 CFR Part 2. Records on the receipt, storage, and distribution of narcotic medication are subject to inspection under Federal controlled substances laws; but use or disclosure of records indentifying patients will, in any case, be limited to actions involving the program or its personnel.

(2) A treatment program or medication unit or any part thereof, including any facility or any individual, shall permit a duly authorized employee of the Food and Drug Administration to have access to and to copy all records on the use of methadone in accordance with the provisions of 42 CFR Part 2. A treatment program may reveal such records only when necessary in a related administrative or court proceeding.

* * * * *

(j) * * *

(2) *Information regarding approved programs and hospitals.* The Food and Drug Adminstration will provide methadone manufacturers and the public with names and locations of programs and hospitals that have been approved to received shipments of methadone for narcotic addiction treatment. All information contained in the forms required by paragraph (k) of this section is available for public disclosure except for names or other identifying information with respect to patients.

* * * * *

(k) *Program forms.* The program sponsor must ensure that the following forms are completed by the proper program staff and submitted to the appropriate State authority and the Division of Methadone Monitoring (HFD–340), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857. Forms are available upon request from the Divisions of Methadone Monitoring (HFD–340), at the same address,

Form

FD–2632—Application for Use of Methadone in a Treatment Program.
FD–2633—Medical Responsibility Statement.
FD–2634—Annual Report Form.
FD–2635—Patient Consent Form.
FD–2636—Hospital Application.

Effective date. This regulation shall be effective November 18, 1980.

(Sec. 4, 84 Stat. 1241 (42 U.S.C. 257a); sec. 3, 88 Stat. 124–125 (21 U.S.C. 823(g)))

Dated: September 11, 1980.

James D. Laurence,

Acting Director, National Institute on Drug Abuse.

Dated: September 11, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs

[FR Doc. 80–28799 Filed 9–16–80; 8:45 am]

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Friday
September 19, 1980

Part IV

Department of Energy

Southeastern Power Administration

Georgia-Alabama Projects; Order Extending Confirmation and Approval of Power Rates

DEPARTMENT OF ENERGY

Southeastern Power Administration

[Rate Order No. SEPA-9]

Georgia-Alabama Projects; Order Extending Confirmation and Approval of Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Extension of Approval on Interim Basis of Georgia-Alabama Projects' Rates.

SUMMARY: The Federal Energy Regulatory Commission (FERC) has not taken action on the rate schedules for Georgia-Alabama Projects' power approved, on an interim basis, by the Assistant Secretary for Resource Applications and submitted to FERC on August 1, 1979. Since approval by FERC is not assured prior to September 30, 1980, when the interim approval expires, the Assistant Secretary has extended the effective period for the applicable rate schedules as provided in Rate Order No. SEPA-9.

EFFECTIVE DATES: Extension of confirmation and approval of rates on an interim basis effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Elberton, Georgia 30635;

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-8336.

SUPPLEMENTARY INFORMATION: Georgia-Alabama Projects' Rate Schedules GAMF-1-B, GAMF-2-B, ALA-1-B, MISS-1-B, SC-1-B, SC-2-B, CAR-1-B and CAR-2-B were previously approved, on an interim basis, by the Assistant Secretary for Resource Applications pursuant to Delegation Order No. 0204-33, 43 FR 60636, for a period beginning October 1, 1979, and ending September 30, 1980. Rate Order No. SEPA-9 provides that the rate schedules shall remain in effect on an interim basis for an additional 12 months unless such period is extended or until these or substitute rates are confirmed and approved by FERC on a final basis.

Issued in Washington, D.C., September 12, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Order Extending Confirmation and Approval of Power Rates on an Interim Basis

September 12, 1980.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This Rate Order is issued pursuant to the delegation to the Assistant Secretary.

Background

On July 31, 1979, the Assistant Secretary for Resource Applications issued Rate Order No. SEPA-5 confirming and approving on an interim basis, effective October 1, 1979, Wholesale Power Rates Schedules GAMF-1-B, GAMF-2-B, ALA-1-B, MISS-1-B, SC-1-B, SC-2-B, CAR-1-B and CAR-2-B applicable to power from the Georgia-Alabama Projects. These rate schedules were to remain in effect on an interim basis through September 30, 1980, unless such period was extended or until FERC confirmed and approved them or substitute rate schedules on a final basis. The rate schedules, together with a March 1979 Repayment Study and other supporting data, copies of a transcript of a Public Comment Forum and applicable power contracts, were submitted to FERC with the request that the rate schedules be confirmed and approved on a final basis.

Discussion

Because of the extraordinary number of Federal power rate actions submitted for final approval since the issuance of Delegation Order No. 0204-33, FERC has been unable to take action on rate schedules applicable to Georgia-Alabama Projects' power. It is necessary, therefore, for the Assistant Secretary for Resource Applications to extend interim approval of the Georgia-Alabama Projects' Power Rate Schedules for an additional 1-year period.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend confirmation and approval on an interim basis, effective October 1, 1980, of attached Rate Schedules GAMF-1-B, GAMF-2-B, ALA-1-B, MISS-1-B, SC-1-B, SC-2-B, CAR-1-B and CAR-2-B. These rate schedules shall remain in effect on an interim basis through September 30, 1981, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C., this 12th day of September 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Wholesale Power Rate Schedule GAMF-1-B

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Government from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the

limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt of total contract demand.

Energy Charge. 3.65 mills per kilowatt-hour.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1979.

Availability

This rate schedule shall be available to the Georgia Power Company, the Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate

The monthly rate for capacity sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption

When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

Number of kilowatt hours unavailable for at least 12 hours in any calendar day × $1.02/number of days in billing month.

October 1, 1979.

Availability

This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Herz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt of total contract demand. $0.28 per kilowatt for standby capacity made available, plus $0.035 per kilowatt per calendar day for such capacity as the Cooperative actually utilizes.

Energy Charge. 3.00 mills per kilowatt-hour for scheduled energy.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by

contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

Number of kilowatts unavailable for at least 12 hours in any calendar day × $1.02/ Number of days in billing month.

October 1, 1979.

Wholesale Power Rate Schedule MISS–1–B

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clark Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Jones Bluff, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the Cooperative and Mississippi Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt of total contract demand.

Energy Charge. 3.65 mills per kilowatt-hour for scheduled energy.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

Number of kilowatts unavailable for at least 12 hours in any calendar day × $1.02/ Number of days in billing month.

October 1, 1979.

Wholesale Power Rate Schedule SC–1–B

Availability

This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project power plant. The actual operating voltage of the Government shall within the limits of good operating practice be suitable for operation with the Customer's system.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.28 per kilowatt per billing month for standby capacity made available, plus $0.035 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy Charge. 3.00 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

2.25 mills per kilowatt-hour for dump energy.

Energy Sold to the Customer

The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for transmission to the Government's other preference customers.

Billing Month

All project energy shall be accounted for on a weekly basis and the total

quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Condenser Operation

The Government shall, upon the request of the Customer, cause its generating units (up to the maximum number specified by contract) to be operated as condensers if, in the sole judgment of the Government, such operation is not contrary to good operating practice, is not detrimental to such generating facilities in excess of ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Customer shall pay the Government $5.65 per generating unit so operated for each hour that such condenser operation is requested by the Customer.

Service Interruption

When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or Interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the monthly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.02 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

October 1, 1979.

Wholesale Power Rate Schedule SC–2–B

Availability

This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clark Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmision and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt of total contract demand.

Energy Charge. 3.65 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompanying monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing Month

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption

When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1979.

Wholesale Power Rate Schedule CAR–1–B

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt of total contract demand.

Energy Charge. 3.65 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy from the Projects to the extent that it is available at the Projects each billing month up to a total amount annually of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocation available on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. In those billing months when the quantity of energy available from the Projects, less six and one-half (6-½) percent losses, is sufficient to supply the energy allocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer will be billed by the Government by delivery points for its monthly energy allocation in an amount determined by multiplying the daily energy allocation by the number of days in the billing month. In those billing months when energy available from the Projects, less six and one-half (6-½) percent losses, is insufficient to supply the energy allocations which accompany the total contract demands of all customers purchasing power pursuant to this rate schedule, the Customer shall be billed by the Government by delivery points for that portion of its monthly energy allocation determined by multiplying the ratio which the total energy available from the Projects for all said Customers' use during the particular billing month bears to the quantity necessary to supply the energy allocations which accompany the total contract demands of all said customers during such month by the quantity of energy necessary to meet the energy allocation of the Customer for said billing month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1979.

Wholesale Power Rate Schedule CAR-2-B

Availability

This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity and energy generated at the Hartwell and Clark Hill Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus in the Hartwell switchyard and at approximately 115,000 volts where the Company's transmission line is connected to the bus at Clark Hill.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge. $1.02 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Energy Charge. (1) 3.00 mills per kilowatt-hour for energy declared for the peak period hours.

(2) 2.25 mills per kilowatt-hour for energy declared for other than peak period hours.

(3) 2.25 mills per kilowatt-hour for dump energy.

Energy Sold to the Company

The Company shall purchase and pay for all dump energy made available by the Government and accepted by the Company. Additionally the Company shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Projects to the Company's system in any billing month after first deducting 810,375 kilowatt-hours multiplied by the number of days in said billing month; provided, however, that the energy to be deducted shall first come from minimum release energy and energy declared for the eighty-four (84) peak period hours per week as specified by contract.

Billing Month

The billing month for power sold under this schedule shall end at 12 midnight on the 20th day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other Customers.

Condenser Operation

The Government shall, upon the request of the Company, cause one or two of its generating units at the Projects to be operated as condensers if, in the sole judgment of the Government, such operation does not unreasonably interfere with the delivery of capacity and energy by the Government to any of its customers, is not contrary to good operating practice, is not deterimental to such generating facilities in excess of

ordinary wear and tear, and does not overload such generating facilities. Such condenser operation, subject to the preceding limitations, shall be in accordance with procedures and schedules developed and agreed upon from time to time by the operating representatives of the parties hereto. The Company shall pay the Government $10.15 per generating unit for units at Hartwell and $5.65 per generating unit for units at Clark Hill each hour that such condenser operation is requested by the Company.

Service Interruption

When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge. For purposes of this rate schedule the delcaration hours consist of 100 hours per week as specified in the contract.

October 1, 1979.

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Part V

Equal Employment Opportunity Commission

Guidelines on Discrimination Because of National Origin; Proposed Revision

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1606

Guidelines on Discrimination Because of National Origin; Proposed Revision

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed revision.

SUMMARY: The Equal Employment Opportunity Commission is proposing a revision of its Guidelines on Discrimination Because of National Origin to clarify them and to specifically inform the public of unlawful employment practices which discriminate on the basis of national origin. These Guidelines reaffirm the Commission's position on national origin discrimination as expressed in Commission decisions and other legal interpretations.

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

ADDRESSES: Address all written comments to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Room 4096, Washington, D.C. 20506. All envelopes should be marked "National Origin Guidelines" in the lower left corner.

FOR FURTHER INFORMATION CONTACT: Karen Danart, Acting Director, or Raj K. Gupta, Supervisory Attorney, Office of Policy Implementation, 2401 E Street, NW., Room 4002, Washington, D.C. 20506, (202) 634–7060.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission is revising its Guidelines on Discrimination Because of National Origin to clarify them and to incorporate the Commission's position on national origin discrimination as expressed in its decisions and other legal interpretations.

Proposed § 1606.1 is based on § 1606.1(b) of the current *Guidelines on Discrimination Because of National Origin.* It defines national origin discrimination broadly as including, but not limited to, employment discrimination because of an individual's, or his or her ancestor's country of origin, or because of an individual's cultural or linguistic characteristics. The Commission will carefully examine charges involving the denial of equal employment opportunity because of an individual's name, marriage to a person of a particular national origin, or association with persons, organizations, schools or religious institutions identified with a particular national origin.

The first sentence of proposed § 1606.2 is based on § 1606.1(c) of the current Guidelines, and has been revised to conform with the coverage of Title VII. It also recognizes that Title VII principles of disparate treatment and adverse impact equally apply to national origin discrimination.

Proposed § 1606.3 is based on the exception in § 1606.1(d) of the current Guidelines. This Section recognizes the national security exception as it appears in § 703(g) of Title VII.

Proposed § 1606.4 reiterates the last sentence in § 1606.1(a) of the current Guidelines and is based on the Commission's long held position that the bona fide occupational qualification exception under § 703(e) of Title VII shall be strictly construed.

Proposed § 1606.5 is based on § 1606.1 (d) and (e) of the current Guidelines. Employers may have citizenship requirements as long as they do not have the purpose or effect of discriminating against an individual on the basis of national origin. See *Espinoza* v. *Farah Mfg. Co., Inc.* 414 U.S. 86, 92 (1973). Where a State law prohibiting the employment of non-citizens is in conflict with Title VII, it is superseded under § 708 of the Title.

Proposed § 1606.6 is derived from several of the concepts stated in § 1606.1(b) of the current Guidelines and affirms that the principles of the *Uniform Guidelines on Employee Selection Procedures,* 29 CFR Part 1607, apply to national origin discrimination. Proposed § 1606.6(b) specifically recognize three selection procedures which tend to exclude individuals on the basis of national origin: Height or weight requirements, fluency-in-English requirements, and training or education requirements which deny employment opportunities to individuals because of their foreign training or education, or which require foreign training or education. Employers must evaluate these selection procedures for adverse impact.

Proposed § 1606.7 recognizes that an individual's primary language is often an essential national origin characteristic. According to estimates from the Survey of Income and Education conducted by the U.S. Bureau of Census in Spring 1976, approximately 28 million persons in the United States (about 13 percent of the total U.S. population) have non-English language backgrounds and may be affected by an employer's speak-English-only rule. The survey identifies persons with non-English language backgrounds as persons whose mother tongue is not English, who normally use languages other than English, or who live in households where languages other than English are spoken. About 21 million, or seventy five percent, of this group are above the age of 18. The study shows the following approximate numbers for each of these language backgrounds: Spanish, 10.6 million; Italian, 2.9 million; German, 2.7 million; French, 1.9 million; Chinese, Japanese, Korean and Vietnamese, 1.8 million; Polish, 1.5 million. Approximately 2.4 million persons in the United States do not speak any English at all.* Under proposed § 1606.7(a), the Commission presumes that totally prohibiting employees from speaking their primary language, violates Title VII because it is a term and condition of employment which discriminates on the basis of national origin by disadvantaging an individual's employment opportunities and by creating a discriminatory working environment. Therefore, where such a rule exists, it will be closely scrutinized. However, proposed § 1606.7(b) recognizes that requiring employees to speak only in English at certain times would not be discriminatory if the employer shows that the rule is justified by business necessity. When the employer believes that the rule is justified by business necessity, proposed § 1606.7(c) requires the employer to clearly inform its employees of the circumstances in which they are required to speak only in English, and the consequences of violating the rule. Notice of the rule is necessary because it is common for individuals whose primary language is not English to inadvertently slip from speaking English to speaking their primary language. Any adverse employment decision against an individual based on a violation of the rule will be considered as evidence of discrimination when an employer has not given effective notice of the rule. The principles set forth in proposed § 1606.7 do not conflict with the Fifth Circuit's decision in *Garcia* v. *Gloor,* 618 F. 2nd 264 (1980). *Gloor* did not involve a speak-English-only rule which was applied at all times. Neither did the facts in *Gloor* involve a bilingual employee whose primary language was not English. In the Court's view, Mr. Garcia, who spoke both English and Spanish, failed to prove that Spanish was his primary language.

*See U.S. Department of Health Education and Welfare, National Center for Education Statistics, Bulletin 78 B-5, August 22, 1978, "Geographic Distribution, Nativity, and Age Distribution of Language Minorities in the United States: Spring 1976"; Waggoner, Dorothy, "Non-English Language Background Persons: Three U.S. Surveys", TESOL Quarterly, Vol. 12, No. 3 at 247–262, September 1978.

Proposed § 1606.8 states that harassment on the basis of national origin is a violation of Title VII and that an employer has an affirmative duty to maintain a working environment free from harassment on the basis of national origin. Proposed § 1606.8(c) applies general Title VII principles to the issue of harassment and states that an employer is responsible for the acts of its supervisory employees or agents, regardless of whether the acts were authorized or forbidden by the employer and regardless of whether the employer knew or should have known of the acts. Proposed § 1606.8(d) distinguishes the employer's responsibility for the acts of its agents or supervisors from the responsibility it has for conduct between fellow employees. This subsection states that liability for acts of national origin harassment in the workplace between fellow employees exists only when the employer, its agents or supervisory employees, knows or should have known of the conduct, and the employer cannot demonstrate that it took immediate and appropriate corrective action. Proposed § 1606.8(e) recognizes that in certain circumstances, an employer may also be responsible for the acts of non-employees with respect to harassment of employees on the basis of national origin.

This revision of the Commission's *Guidelines on Discrimination Because of National Origin* is a significant regulation under Executive Order 12044, (43 FR 12661, Mar. 24, 1978, as amended by E.O. 12221, 45 FR 44249, July 1, 1980). The Commission has determined that these proposed Guidelines will not have a major impact on the economy and that a regulatory analysis is not necessary.

In compliance with Executive Order 12067 (43 FR 28967, July 5, 1978), the Commission has consulted with representatives from the necessary federal agencies. At the end of the 60 day comment period, the Commission will again consult with these agencies on the issues raised through the public comment process.

In compliance with Executive Order 12160 (44 FR 44787, Sept. 28, 1979) and with the Commission's Final Consumer Program (45 FR 38930, June 9, 1980), the Commission will notify members of the public of their opportunity to comment on these Guidelines by placing notices in periodicals likely to be read by individuals affected by the Guidelines, and also by directly mailing the Guidelines to interested groups and individuals.

Dated: September 16, 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

Accordingly, it is proposed to amend 29 CFR Chapter XIV by revising Part 1606 to read as follows:

PART 1606—GUIDELINES ON DISCRIMINATION BECAUSE OF NATIONAL ORIGIN

Sec.

Authority: Title VII, Civil Rights Act of 1964, as amended; (42 U.S.C. 2000e, et seq.).

§ 1606.1 Definition of national origin discrimination.

The Commission defines national origin discrimination broadly as including, but not limited to, the denial of equal employment opportunity because of an individual's, or his or her ancestor's, country of origin; or because an individual has the cultural or linguistic characteristics of a particular national origin. The Commission will examine with particular concern cases where individuals within the jurisdiction of the Commission have been denied equal employment opportunity for reasons which are grounded in national origin considerations, such as (a) marriage to or association with persons of a particular national origin; (b) membership in, or association with, an organization identified with or seeking to promote the interests of national groups; (c) attendance or participation in schools, churches, temples or mosques, generally used by persons of a particular national origin; and (d) because an individual's name or spouse's name indicates a particular national origin.

§ 1606.2 Scope of title VII protection.

Title VII of the Civil Rights Act of 1964, as amended, protects individuals against employment discrimination on the basis of race, color, religion, sex or national origin. The Title VII principles of disparate treatment and adverse impact equally apply to national origin discrimination. The Guidelines apply to all persons covered by Title VII (collectively referred to as "employer" in these Guidelines).

§ 1606.3 The national security exception.

It is not an unlawful employment practice to deny employment opportunities to any individual who does not fulfill the national security requirements stated in Section 703(g) of Title VII.

§ 1606.4 The bona fide occupational qualification exception.

The exception stated in Section 703(e) of Title VII, that national origin may be a bona fide occupational qualification, shall be strictly construed.

§ 1606.5 Citizenship requirements.

(a) In those circumstances, where citizenship requirements have the purpose or effect of discriminating against an individual on the basis of national origin, they are prohibited by Title VII.[1]

(b) Some State laws prohibit the employment of non-citizens. Where these laws are in conflict with Title VII, they are superseded under Section 708 of the Title.

§ 1606.6 Selection procedures.

(a) The Uniform Guidelines on Employee Selection Procedures, 29 CFR Part 1607, equally apply to discrimination on the basis of national origin.

(b) The Commission has consistently held that the following are examples of selection procedures that tend to exclude individuals on the basis of national origin. Therefore, the Commission expects a user of these selection procedures to evaluate them for adverse impact. If any of these has an adverse impact on the employment opportunities of members of a particular national origin, the user must show that the selection procedure is job related by validating it, or otherwise justifying it, under the *Uniform Guidelines on Employee Selection Procedures.*

(1) Height or weight requirements.[2]

(2) Fluency-in-English requirements, such as denying employment opportunities because of an individual's foreign accent,[3] or inability to communicate well in English.[4]

(3) Training or education requirements which deny employment opportunities to an individual because of his or her foreign training or education, or which

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[1] See *Espinoza* v. *Farah Mfg. Co., Inc.*, 414 U.S. 86, 92 (1973).

[2] See CD 71–1529 (1971), CCH EEOC Decisions ¶6231, 3 FEP Cases 952; CD 71–1418 (1971), CCH EEOC Decisions ¶6223, 3 FEP Cases 580; CD 74–25 (1973), CCH EEOC Decisions ¶6400, 10 FEP Cases 260. *Davis* v. *County of Los Angeles*, 566 F. 2d 1334, 1341–41 (9th Cir., 1977) vacated and remanded as moot on other grounds, — U.S. —, 99 S.Ct. 1379 (1979). See also, *Dothard* v. *Rawlinson*, 433 U.S. 321 (1977).

[3] See CD AL68–1–155E (1969), CCH EEOC Decisions ¶6008, 1 FEP Cases 921.

[4] See CD YAU9–048 (1969), CCH EEOC Decisions ¶6054, 2 FEP Cases 78.

require an individual to be foreign trained or educated.

§ 1606.7 Speak-English-only rules.

(a) *When Applied at all Times.* An individual's primary language is often an essential national origin characteristic. Prohibiting employees at all times from speaking their primary language, or the language they speak most comfortably, disadvantages an individual's employment opportunities on the basis of national origin. It may also create an atmosphere of inferiority, isolation and intimidation based on national origin which could result in a discriminatory working environment.[5] Therefore, the Commission believes that a rule requiring employees to speak only English at all times in the workplace is a burdensome term and condition of employment. The Commission will presume that such a rule violates Title VII and will closely scrutinize it.

(b) *When Applied Only at Certain Times.* An employer may have narrowly drawn rules requiring that employees speak only in English at certain times where the employer can show that the rule is justified by business necessity.

(c) *Notice of the Rule.* It is common for individuals whose primary language is not English to inadvertently change from speaking English to speaking their primary language. Therefore, if an employer believes it has a business necessity for a speak-English-only rule at certain times, the employer must inform its employees of the exact circumstances and times when speaking only in English is required and of the consequences of violating the rule. If an employer fails to effectively notify its employees of the rule and makes an adverse employment decision against an individual based on a violation of the rule, the Commission will consider the employer's application of the rule as evidence of discrimination on the basis of national origin.

§ 1606.8 Harassment.

(a) The Commission has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.[6]

(b) Ethnic slurs and other verbal or physical conduct relating to an individual's national origin constitutes harassment when this conduct: (1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

(c) An employer is responsible for its acts and those of its agents and supervisory employees with respect to harassment on the basis of national origin regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of harassment in the workplace on the basis of national origin, where the employer, its agents or supervisory employees, knows or should have known of the conduct, unless the employer can show that it took immediate and appropriate coorective action.

(e) An employer may also be responsible for the acts of nonemployees with respect to harassment of employees in the workplace on the basis of national origin, where the employer, its agents or supervisory employees, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such nonemployees.

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[5] See CD 71-446 (1970), CCH EEOC Decisions ¶6173, 2 FEP Cases 1127; CD 72-0281 (1971), CCH EEOC Decisions ¶6293.

[6] See CD CL68-12-43 IEU (1969), CCH EEOC Decisions ¶ 6085, 2 FEP Cases 295; CD 72-0621 (1971), CCH EEOC Decisions ¶6311, 4 FEP Cases 312; CD 72-1561 (1972), CCH EEOC Decisions ¶6354, 4 FEP Cases 852; CD 74-2 (1973), CCH EEOC Decisions ¶6386, 6 FEP Cases 830; CD 74-05 (1973), CCH EEOC Decisions ¶6387, 6 FEP Cases 834; CD 76-41 (1975), CCH EEOC Decisions ¶6632. See also, *Interim Guidelines on Discrimination Because of Sex*, § 1604.11(a) n. 1, 45 FR 25024 at 25025 (April 11, 1980).

federal register

Friday
September 19, 1980

Part VI

Department of Defense

Corps of Engineers, Department of the Army

Proposal To Amend Permit Regulations for Controlling Certain Activities in Waters of the United States

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320 through 330

Proposal To Amend Permit Regulations for Controlling Certain Activities in Waters of the United States.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers is proposing to amend its permit regulations for controlling certain activities in waters of the United States. The amendments are needed to reflect a number of new laws (primarily the 1977 Amendments to the Clean Water Act), Executive Orders, judicial decisions, and policy changes which have occurred since the current regulations were published on July 19, 1977. Additionally, the Corps is proposing an expansion to its nationwide permit program to continue to reduce unnecessary regulatory burdens. The existing nationwide permits found in Parts 322 and 323 would be moved to new Part 330 which would then contain all existing and proposed nationwide permits. Any of the proposed changes and additions to the nationwide permit program found in Part 330 will be effective only after public comment and opportunity to request a public hearing and a case-by-case determination that the new nationwide permits are in the public interest. Many of the proposed changes are based on a review of the current regulations as required by Executive Order 12044, Improving Government Regulations. That order expresses the desire of the President to make Federal regulations simpler and less burdensome on the public. Public participation in this rulemaking is encouraged to achieve that desire.

DATES: Comments must be received on or before 1 December 1980. If the Corps decides to hold a public hearing or hearings on the proposed nationwide permits, a 30-day advance notice will be published in the **Federal Register.**

ADDRESS: Comments should be submitted in writing to: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Washington, DC 20314. Commments will be available for examinations at the Office of the Chief of Engineers, Room 6235, Pulaski Building, 20 Massachusetts Avenue NW., Washington, DC 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Clark or Mr. Bernie Goode, Regulatory Functions Branch, phone number (202) 272-0199, or Mr. Martin Cohen, Chief Counsel's Office, phone number (202) 272-0033.

SUPPLEMENTARY INFORMATION:

Why Revisions to the Regulations Are Being Proposed

Revisions to the regulations are being proposed for three basic reasons. First, the present regulations were issued on July 19, 1977, and the subsequent amendments to the Clean Water Act (CWA) of December 27, 1977, included changes to the Section 404 permit program for regulating discharges of dredged and fill material into waters of the United States. Second, the Corps has found its nationwide permit program initiated July 19, 1977, reduces unnecessary regulatory burdens and is seeking public comment on that program and on its proposed expansion. Thirdly, a number of other new laws, Executive Orders, judicial decisions, policy changes, and other regulations bearing on the permit programs have taken effect since the last publication of the regulations on July 19, 1977. These include Executive Order 12044, Improving Government Regulations, March 23, 1978, which requires agencies to review significant regulations with a view towards simplifying them and making them less burdensome on the public.

The Significant Changes

Significant proposed changes are described below. Minor changes such as clarifications, new references, rearrangements, new law citations, and new agency names are not identified in this description but Parts 320–327 and 330, which include all these changes, are presented thereafter in their entirely.

Part 320—General Regulatory Policies

Section 320.1(a): This new section would explain the Corps of Engineers' approach to its regulatory responsibilities.

Section 320.3(a): This revision would recognize that Federal applicants now require state water quality certifications per revisions to Section 401 of the CWA.

Section 320.(a): The public interest factors would be expanded and slightly modified for consistency with other parts of the regulations.

Section 320.4(j): Would be revised to clarify that permit decisions will normally not be deferred pending action on other agency authorizations. A sentence would be added to subparagraph (4) to indicate permits will generally be issued for Federal projects. Subpargraph (7) would be added to establish coordination procedures with affected Indian tribes.

Section 320.4(l): The floodplain policy paragraph has been jointly rewritten with the U.S. Water Resources Council (WRC) to better respond to Executive Order 11988 and WRC's implementing guidelines published February 10, 1978.

Section 320.4(m): This new paragraph would direct attention to water conservation as an important public interest factor consistent with the President's water quality message of June 6, 1978.

Part 321—Dams and Dikes

Section 321.2(b): The definitions of a dam and dike would be combined and clarified to exclude weirs.

Section 321.3(b): Would be revised to allow a Section 9 permit application to be processed concurrently with the applicant seeking Congressional or state legislative approval.

Part 322—Structures and Work

Section 322.2(f): A provision would be added to allow general permits to be issued to avoid unnecessary duplication of the regulatory control exercised by another Federal agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal, in accordance with the procedures set forth in 33 CFR Part 330.

Section 322.3(a)(1) and 322.5(g): These sections would be revised in accordance with National Wildlife Federation v. Alexander, CA 77-1687, U.S. District Court, District of Columbia.

Section 322.4: All nationwide permits would be moved to new Part 330.

Section 322.5(f): During the review of the proposed regulation revisions, a question was raised on the scope of the Corps' evaluation of permit applications for structures in mineral lease areas on the outer continental shelf. About ten years ago, the Corps adopted a policy of limiting its review of such applications to impacts on navigation and national security only because the Department of the Interior (DOI), Bureau of Land Management, considered all other factors of the public interest in its decision on whether or not to grant the lease.

A review of the applicable legislation raises the question of whether the Corps' jurisdiction may not be broader than such limited review. If the Corps' jurisdiction is determined to be broader—to encompass other public interest factors in addition to navigation and national security—then the Corps would be interested in the posibility of entering into a Memorandum of Agreement (MOA) with the DOI with a

view to avoiding the duplication and delay that would result were both the DOI and the Corps to conduct full public interest reviews. The present language, together with a suggested alternative proposal based upon an MOA in recognition of a broader jurisdiction, are presented in the regulation for comment. If the change were to be adopted, the present regulation would remain in effect until the MOA was agreed upon. The Corps solicits public comments on each of these jurisdictional and policy questions.

Appendices A and B would not be changed.

Part 323—Discharges of Dredged and Fill Material

Section 323.2(a): Former category (1), (2), and (3) waters would be consolidated into a single category. There would be three rather than five categories of waters of the United States—navigable waters of the United States and their tributaries, interstate waters, and intrastate, isolated waters. In the case of intrastate, isolated waters, Federal jurisdiction depends on a tie to interstate commerce. A provision would be added to give division engineers the control over such jurisdictional determinations, similar to their current authority to determine jurisdictional limits of navigable waters of the United States. No change would be made in the overall scope of waters of the United States.

Section 323.2 (e) and (f): The terms "natural lake" and "impoundment" would be combined into the single term "lake."

Section 323.2(h): The footnote allowing the use of the median flow rather than the average anual flow to establish the "headwater" would be revised to delete the necessity of notifying the Environmental Protection Agency (EPA) of that use. Most headwater determination decisions have already been made and there have been no known objections to the district engineers' decisions.

Section 323.2(n): A provision has been added to allow general permits to be issued to avoid unnecessary duplication of the regulatory control of another Federal agency as discussed for § 322.2(f), above.

Section 323.4: Former § 323.4, nationwide permits, would be deleted (now in Part 330) and replaced by the Section 404 program exemptions provided for by Sections 404 (f) and (r) of the CWA. It should be noted that the language found in § 323.4 was developed jointly by the Corps and EPA and is found verbatim in the final version of EPA's consolidated regulations published at 40 CFR 123.92. This approach was necessary due to the requirements for consistency between the Corps Section 404 program and the 404 state transfer programs which are subject to EPA approval. If public comment indicates a need to make any substantive changes to the exemption language, the Corps will coordinate with EPA to seek amendments to EPA's regulations.

Section 323.5: This would be a new section to cover transfer by EPA of portions of the Section 404 permit program to requesting and qualifying states per Section 404(h) of the CWA. EPA published proposed transfer regulations on June 14, 1979 (40 CFR Part 123).

Section 323.6: Paragraph (b) would be revised in accordance with the interagency agreements called for by Section 404(q) of the CWA and EPA regulations for Section 404(c) veto procedures (40 CFR Part 231).

Appendix A remains unchanged.

Part 324—Ocean Dumping

Section 324.3(b)(2): The phrase "beyond the territorial sea" would be added at the end of the paragraph since Federal applicants now require state water quality certification per revisions to Section 401 of the CWA.

Part 325—Permit Processing

Section 325.1(b): This would be a new provision for pre-application consultation based on regulations of the Council on Environmental Quality for agency procedural compliance with the National Environmental Policy Act (NEPA). Other Corps procedures and policies for compliance with CEQ's NEPA regulations in its regulatory programs are now found in Appendix B to 33 CFR 230; a number of changes and deletions would be made throughout Part 325 to reflect this.

Section 325.1(d)(2): This new provision would avoid piecemeal applications for work associated with the same project.

Section 325.1(d)(6): This new paragraph would reflect recent policy guidance on safety of impoundment structures.

Section 325.1(g): The fee requirement for letters of Permission would be deleted since activites covered by Letters of Permission are similar in scope to general permits for which no fee is charged.

Section 325.2(a) (1) and (2): The requirement that the public notice be issued not more than 15 days after submission of a complete application has been included in Section 404(a) of the CWA. The basis for the second sentence of 325.2(a)(2) is a stipulation agreed to in a law suit involving the ocean dumping permit program.

Section 325.2(a)(6): This provision would delete the prohibition against divulging the district and division engineer recommendations on applications forwarded for higher authority decision to enhance public knowledge. Such disclosure would be encouraged in appropriate cases.

Section 325.2(b): The revisions to subparagraph (1) would expand and clarify the water quality certification procedures where more than one state is involved. Normal time for states to certify would be decreased from three to two months. Subparagraph (2) would be expanded to cover coastal zone certification procedures where Indian lands are involved.

Section 325.2(c): Division engineers would be given the authority to approve emergency processing procedures. This authority now rests with the Office of the Assistant Secretary of the Army (Civil Works). Any emergency permit of significance will be published as in appropriate. Such special procedures normally would not be authorized for a permit applicant who unreasonably contributes to the emergency situation.

Section 325.2(d): Would be revised to conform with Section 404(a) of the Clean Water Act and the interagency agreements developed pursuant to Section 404(q). Subparagraph (4) would be added to clarify that decisions on permits will normally not be deferred pending action on other agency authorizations.

Section 325.2(e): This paragraph would be added to briefly discuss Corps responsibilities under the Endangered Species Act.

Section 325.3(a)(9): The inclusion of a preliminary determination for NEPA documentation in the public notice would be replaced by notice of a categorical exclusion (if appropriate) in accordance with Appendix B to 33 CFR Part 230.

Section 325.4: Former 325.4 Environmental Impact Statement (EIS) is now covered in Appendix B to 33 CFR 230. New 325.4 would provide guidance on permit conditioning. Conditioning for dam safety inspections would be moved from Part 320 to 325.4.

Section 325.6(c): The specification of a start time for permitted activities would be made optional to reduce the administrative burdens that have resulted from the mandatory start time requirement. "Revalidation" of permits is generally no longer in use and would be removed from the regulations; permits are extended or new permits issued. A three year maximum period

for ocean dumping permits has been added based on a stipulation agreed to in a law suit involving the ocean dumping permit program.

Section 325.7 (b) and (k): The option for the permittee to request a meeting with the district engineer rather than a formal public hearing on modification and suspension procedures would be added.

Section 325.7(d): The authority to revoke a permit would be given to the authority that made the decision on the original permit rather than the Chief of Engineers.

Section 325.8 (b) and (c): District and division engineer authorities have been revised to be consistent with the approach developed for the interagency agreements required by Section 404(q) of the CWA. District engineers would be given the authority to deny permits without public notice for navigation interference or other authorization denials.

Appendix A, Permit Form, would be revised as follows:

1. The term "Federal Water Pollution Control Act (86 Stat. 816, P.L. 92–500)" which appears in three places would be changed to "Clean Water Act (33 U.S.C. 1344)" to reflect the new law citation.

2. The last clause of General Condition "i" would be deleted and set forth separately in new condition "j": "That this permit does not obviate the requirement to obtain state or local assent required by law for the activity authorized herein." This change would eliminate any suggestion that this provision relates to property rights.

3. General Conditions "j" and "k" would be combined into a new condition "k":

"That this permit may be modified, suspended or revoked in whole or in part pursuant to the policies and procedures prescribed in 33 CFR 325.7." This change would eliminate present inconsistencies between the two conditions and the regulation provisions and would avoid the necessity to revise the conditions in the future as the suspension, modification, revocation procedures change in the regulations through rulemaking procedures.

4. General Condition "o" would be revised to delete the start time dates pursuant to the proposed change to § 325.6(c).

5. New General Condition "u" would be added as follows: "That if the permittee, during prosecution of the work authorized herein, encounters a previously unidentified archeological or other cultural resource that might be eligible for listing in the National Register of Historic Places, he shall immediately notify the District Engineer." This notification will enable the District Engineer to initiate procedures required by historic preservation laws (see paragraph 11 of Appendix C to 33 CFR Part 325).

6. The last phrase of Condition "b" under "Discharges of dredged or fill material into waters of the United States" relating to toxic pollutants would be changed from "in other than trace quantities" to "in toxic amounts" to agree with the language of Section 101(a)(3) of the CWA.

7. Condition "d" under "Discharges of Dredged or Fill Material into Waters of the United States" pertaining to wild and scenic rivers would be deleted as its original inclusion as a permit condition was inappropriate.

Appendix B, 1967 MOU with Department of the Interior has been terminated. Appendix B would be revoked and reserved. New agreements, with five federal agencies, under Section 404(q) of the CWA, became effective on March 24, 1980. These agreements would be added as Appendices D through H and are included in this publication. The agreements supersede any contrary provisions now found in 33 CFR Parts 320–329, 42 FR 37122, July 19, 1977.

Appendix C, Procedures for the Protection of Cultural Resources, contains new procedures for compliance with historic preservation laws. The procedures were jointly drafted with the President's Advisory Council on Historic Preservation and published separately in the **Federal Register** on April 3, 1980, as proposed rulemaking.

Part 326—Enforcement

Changes would be made to reduce or eliminate the duplications and delays resulting from the current practice of evaluating the unauthorized work prior to deciding whether legal action is appropriate, then essentially making the same evaluation when an after-the-fact application is received. The proposed revisions concentrate on an initial determination of whether any significant adverse impacts are occurring which would require expeditious mitigation or restoration measures to protect life, property, or a significant public resource. Once that determination is made, such remedial measures can be administratively ordered and a decision can be made on whether legal action is necessary to either enforce the order or to institute criminal action. The full public interest review can then be deferred until the after-the-fact application is processed. In routine, minimal impact cases, district engineers, following issuance of a cease and desist order, may dispense with contacting the other coordinating agencies and go directly to a determination of whether legal action is called for in enforcing the administrative cease and desist order. If legal action were initiated, an after-the-fact application would not be accepted until the legal action is completed. If no legal action is taken, an after-the-fact application would be accepted immediately. Once an after-the-fact application is received, the public interest review may proceed.

Part 327—Public Hearings

The public hearing regulation would be changed to make the public hearing policies consistent under all Corps of Engineers regulatory authorities. As the standard, we would adopt the policies and criteria previously applicable to Section 404 only. This part would also be changed to combine the hearing file with the complete administrative record of the permit action. All the information currently required for the public hearing file is also required to be in the administrative record. This duplication would be eliminated. The requirement for a verbatim hearing transcript would be retained. The mandatory requirement for district counsel to be present at all hearings as a legal adviser to the presiding officer (§ 327.6) would be changed to a discretionary decision.

Part 328—Harbor Lines

This part provides generally that permits are not required for structures and fill behind established harbor lines if their construction commenced prior to May 27, 1970. The Corps is interested in receiving comments on the value of retaining this part in the CFR. If a need for retaining it cannot be established, the Corps proposes to revoke Part 328.

Part 329—Definition of Navigable Waters of the United States

Based on a west coast court decision (*Leslie Salt Co.* v. *Froelke,* 578 F.2d 742) (9th Cir 1978) the shoreward limit of navigable waters of the United States (frequently referred to as "Section 10 waters") in coastal areas is now the mean high water line on both the Atlantic and Pacific coasts (formerly the mean higher water was used on the Pacific coast). Therefore, Part 329 is being amended to delete the second sentence of § 329.12(a)(2). That sentence now reads: "However, on the Pacific Coast, the line reached by the mean of the higher high waters is used."

No other changes are proposed to Part 329, but public comments and suggestions are welcome.

Part 330—Nationwide Permits

This would be a new part containing existing and proposed nationwide

permits. The existing nationwide permits and applicable policies found in 33 CFR 322.4 (Section 10 nationwide permits) and 323.4 (Section 404 nationwide permits) would be combined and relocated to Part 330. Some of those permits and applicable policies would be revised.

The existing nationwide permits took effect upon publication in the Federal Register July 19, 1977. The Corps is very interested in receiving public comment on the present nationwide permits since it will in effect be reissuing those permits when Part 330 is published as final rulemaking. When those permits were adopted July 19, 1977, the Corps' basic criteria for permit candidates were those activities which were substantially similar in nature and that would cause only minimal individual and cumulative environmental impact. The similar/minimal impact criteria are now legislatively endorsed for the Section 404 permit program by Section 404(e)(1) of the CWA. Section 404(q) expresses the desire of Congress "to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this Section," and Executive Order 12044 directs Federal agencies to reduce regulatory burdens on the public wherever legally possible. The Corps is interested in receiving public comment on the expansion of the nationwide permit program to include those activities of other Federal agencies which would have individual or cumulative minimal environmental impact. The Corps also solicits suggestions for future nationwide permit candidates. One feature of the nationwide permit program which the Corps is particularly interested in receiving public comment on is the need for reporting to the district engineer as a prerequisite to working under a nationwide permit. Some say reporting is necessary to insure that the activity is in fact covered, to make the applicant aware of the applicable conditions and management practices, and to facilitate monitoring of individual and cumulative impacts. Others feel the public benefits to be gained by reporting are offset by the resulting delays and paperwork. Furthermore, since many of the activities are of a type which, as a practical matter, will never be reported regardless of regulation requirements; they would theoretically be subject to enforcement actions thus adding further demands on regulatory resources. Perhaps some of the activities should be reported and others not. Any comments on how the Corps can make the nationwide permit system work effectively and efficiently will be welcomed.

A brief discussion of the revised and new nationwide permits follows:

1. *Section 330.3(a):* The nationwide permits for discharges occurring before the phase-in dates for Section 404 jurisdiction over *all* waters of the United States would be consolidated and simplified.

2. *Section 330.4(a):* The four nationwide permits for discharges into certain waters (now at § 323.4–2(a)) would be consolidated and simplified into two permits—(1) discharges above headwaters and (2) discharges into isolated, intrastate waters. The exception for lakes greater than 10 acres in size would be deleted both for simplicity and because of the lack of justification for the exception (there is no such exception in the current regulations for impoundments and wetlands regardless of size). The ability to regulate discharges into any waterbody on an individual basis is available through the discretionary procedures of § 330.7.

3. *Section 330.5(a)(1):* Presently only aids installed by the Coast Guard are included. This revision would expand the coverage to all aids and regulatory markers *regulated* by the Coast Guard. This permit also would avoid dual Federal regulatory control.

4. *Section 330.5(a)(4):* Fish and wildlife harvesting activities would be added to this existing nationwide permit since such activities are or can be adequately regulated through other Federal, state and local fishing and hunting regulatory programs or are so minor in impact as not to require any individual review.

5. *Section 330.4(a)(6):* Seismic operations would be added to avoid delays for geophysical survey activities.

6. *Section 330.5(a)(7):* New nationwide permit to avoid duplicating the regulatory control exercised by EPA under its Section 402 permitting authority. The public concern and impacts of outfall structures are generally related to what comes out of the pipe rather than to the pipe itself.

7. *Section 330.5(a)(9):* New nationwide permit to avoid duplicating controls exercised by the U.S. Coast Guard over vessel anchorages and moorages.

8. *Section 330.5(a)(10):* New nationwide permit to avoid unnecessary Federal control over private mooring buoys.

9. *Section 330.5(a)(11):* New nationwide permit to avoid unnecessary Federal control over temporary markers and buoys.

10. *Section 330.5(a)(12):* Existing nationwide permit would be expanded to include backfill and bedding for intake and outfall structures.

11. *Section 330.5(a)(13):* Existing nationwide permit for bank stabilization applies only to Section 404 authority. It is now proposed to apply it to Section 10 authority as well which necessitates some special conditioning.

12. *Section 330.5(a)(15):* Existing nationwide permit for some bridge-associated fills in tidal waters would be expanded to also apply to non-tidal bridge-associated fills where those fills are regulated by the U.S. Coast Guard as part of the bridge permit. This would reduce dual Federal regulatory control for non-tidal bridges crossing navigable waters of the United States.

13. *Section 330.5(a)(16):* New nationwide permit to recognize that the return water from dredged material placed hydraulically on upland sites is administratively recognized as a 404 discharge but need not be regulated on an individual basis as long as the water quality concerns are protected through the Section 401 certification procedure. Reducing regulatory burdens on upland disposal should encourage such disposal and avoid the confusion now existing on why hydraulic disposal on the upland needs a 404 permit while non-hydraulic disposal does not.

14. *Section 330.5(a)(17):* New nationwide permit to avoid duplicating the regulatory control exercised by the Department of Energy (FERC) under the Federal Power Act of 1920 for small hydropower projects.

15. *Section 330.5(a)(18) and (19):* New nationwide permits for extremely small dredge and fill activities.

16. *Section 330.5(a)(20):* New nationwide permit to avoid regulatory delays associated with oil and hazardous substances containment and cleanup operations.

17. *Section 330.5(a)(21):* New nationwide permit to avoid duplicating the regulatory control exercised by the Department of the Interior under the Surface Mining Control and Reclamation Act of 1977. The provision for an advance review by the Corps would afford the Corps an opportunity to insure that the activity needing a Corps permit would have minimal impacts and thus qualify for the nationwide permit.

18. *Section 330.5(a)(22):* New nationwide permit for work associated with removal of wrecked vessels and navigational obstructions.

19. *Section 330.5(a)(23):* New nationwide permit to reduce duplication of effort and unnecessary paperwork concerning activities of other Federal agencies which would have individual or cumulative minimal environmental impacts.

20. *Section 330.5(a)(24):* New nationwide permit to avoid duplications with state-administered Section 404 permit programs. Administration of the Section 404 program in Waters which are navigable waters of the United States based solely on historical commercial use may be transferred to qualified states pursuant to Section 404(g) of the CWA. However, the Corps retains Section 10 permitting authority in these waters. Thus the discharge of dredged or fill material in such waters would require both a Corps Section 10 permit and State Section 404 permit. Since both EPA and the Corps have adequate control over the state 404 programs to protect the federal interest, a nationwide permit to satisfy the Section 10 jurisdictional authority would avoid paperwork, duplications, and delays.

21. *Section 330.7:* Authority to cancel nationwide permit coverage would be elevated from the district engineers to the Chief of Engineers. Experience has demonstrated this need (See footnote 5 in the proposed regulation.)

22. *Section 330.8:* A 5-year expiration date would be added to accord with Section 404(e) of the CWA.

401 Certification on Nationwide Permits

A number of the nationwide permits proposed in Part 330 involve a discharge into waters of the United States. Section 401 (a)(1) of the CWA provides that discharge permits will not be issued until the state from which the discharge would originate has certified that the discharge will comply with applicable provisions of the CWA. A certification waiver procedure is also provided by Section 401. Because of (1) the nature of the discharges covered by the proposed nationwide permits, (2) the experience to date with the existing nationwide permits, and (3) the controls either provided by the conditions of the nationwide permits or exercised by another agency, the Corps has assumed that all states will want to waive certification requirements (with the exception of nationwide permit § 330.5(a)(16) (runoff from uplands disposal area) which calls for certification as a condition to the permit). However, any state desiring to exercise its Section 401 certification rights for any or all nationwide permits involving a discharge should notify the Corps so that appropriate exceptions or special requirements can be incorporated into the nationwide permit program. Public comment on this issue will also be welcomed.

Coastal Zone Management

Section 307(c) of the Coastal Zone Management Act of 1972 requires non-Federal applicants for permits affecting state coastal zones to certify that the proposed activity would comply with the state's coastal zone management program. While there are no applicants, per se, for nationwide permits, this notice will serve as a certification that the proposed activities covered by the nationwide permits would comply with and be conducted in a manner that is consistent with approved state Coastal Zone Management Programs. The Corps solicits comments on this certification statement, particularly from state agencies responsible for coastal zone management plans.

Public Hearing Requests

Any person may request a public hearing on the nationwide permits proposed in Part 330, including those already existing. Since some of the nationwide permits may be eliminated or revised based on public comment, it is important that requests for public hearing state the particular permit or permits of concern and what those concerns are. If the Corps determines that a public hearing or hearings would assist in making a decision on any of the nationwide permits, a 30-day advance notice will be published in the **Federal Register** advising interested parties of the date(s) and location(s) for the hearing(s).

Nationwide Permit Documentation

The Corps will issue, by publication in the **Federal Register** as final rulemaking, only those nationwide permits found to be in the public interest. The Corps will prepare findings of fact and environmental documentation before adopting any of the nationwide permits. The documentation will include a discussion on the conformity with the EPA guidelines adopted under Section 404(b) of the CWA for the discharge of dredged or fill material in waters of the United States (40 CFR 230).

Note 1

The Department of the Army has determined that the proposed regulation revisions do not contain a major proposal requiring the preparation of a regulatory analysis under E.O. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978).

Note 2

The term "he" and its derivatives used in these regulations is generic and should be considered as applying to both male and female.

Dated: September 11, 1980

E. R. Heiberg III,

Major General, USA, Director of Civil Works.

The Corps proposes to amend Parts 320–327 and adopt new Part 330 as follows:

1. Part 320 is revised in its entirety.

PART 320—GENERAL REGULATORY POLICIES

Sec.

Authority: 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 320.1 Purpose and scope.

(a) *Regulatory Approach of the Corps of Engineers.* (1) The U.S. Army Corps of Engineers has been involved in regulating certain activities in the nation's waters since 1890. Until 1968, the primary thrust of the Corp's regulatory program was the protection of navigation. As a result of several new laws and judicial decisions, the program has evolved from one that primarily protects navigation only to one that protects the full public interest by balancing the favorable impacts against the detrimental impacts. This is known as the "public interest balance process" or the "public interest review." The program is one which reflects the national concern for both the protection and utilization of important resources. It is a Federal water resource management program designed to ensure that man's use of the nation's waters will serve the best interests of society as a whole. It is a dynamic program that varies the weight given to a specific public interest factor in light of the importance of other such factors in a particular situation.

(2) The Corps is a highly decentralized organization. Most of the authority for administering the regulatory program has been given to the thirty six district engineers and eleven division engineers. Far less than one percent of all permit applications must be referred to the Chief of Engineers or Secretary of the Army for decisions. If a district or division engineer makes a final decision on a permit application in accordance with their delegated authorities, there is no administrative appeal of that decision, except as provided for Federal agencies under agreements pursuant to Section 404(q) of the Clean Water Act.

(3) The Corps seeks to avoid unnecessary regulatory controls. The general permit program described in 33 CFR Part 330 is the primary method of eliminating unnecessary Federal control

over activities which are too minor to justify individual control.

(4) The Corps believes that applicants are not necessarily due a favorable decision but they are due a timely one. Reducing unnecessary paperwork and delays is a continuing Corps goal.

(5) The Corps believes that state and Federal regulatory programs should complement rather than duplicate one another. Use of general permits, joint processing procedures, interagency review coordination and authority transfers (where authorized by law) are encouraged to reduce duplications.

(b) *Types of activities regulated.* This regulation and the regulations that follow (33 CFR Parts 321–330) prescribed the statutory authorities, and general and special policies and procedures applicable to the review of applications for Department of the Army permits for various types of activities that occur in waters of the United States or the oceans. This part identifies the various Federal statutes that require Department of the Army permits before these activities can be lawfully undertaken; the related Federal legislation applicable to the review of each activity that requires a Department of the Army permit; and the general policies that are applicable to the review of all activities that requires Department of the Army permits. Parts 321–324 address the various types of activities that require Department of the Army permits, including special policies and procedures applicable to those activities, as follows:

(1) Dams or dikes in navigable waters of the United States (Part 321);

(2) Other structures or work including excavation, dredging, and/or disposal activities, in navigable waters of the United States (Part 322);

(3) Activities that alter or modify the course, condition, location, or physical capacity of a navigable water of the United States (Part 322);

(4) Construction of fixed structures and artificial islands on the outer continental shelf (Part 322);

(5) Discharges of dredged or fill material into the waters of the United States (Part 323);

(6) Activities involving the transportation of dredged material for the purpose of dumping it in ocean waters (Part 324); and

(7) Nationwide permits for certain categories of these activities (Part 330).

(c) *Forms of authorization.* Department of the Army permits for the above described activities are issued under various forms of authorization. These include individual permits that are issued following a review of an individual application for a Department of the Army permit and general permits that authorize the performance of a category or categories of activities in a specific geographical region or nationwide. The term "general permit" as used in these regulations (33 CFR Parts 320–330) refers to both those regional permits issued by district engineers on a regional basis and to nationwide permits issued by the Chief of Engineers through publication in the Federal Register and applicable throughout the nation. The nationwide permits are found in 33 CFR Part 330. If an activity is covered by a general permit, an application for a Department of the Army permit does not have to be made. In such cases, a person must only comply with the conditions contained in the general permit to satisfy the requirements of law for a Department of the Army Permit. However, some general permits require advance reporting to be effective.

(d) *General instructions.* The procedures for processing all individual permits and general permits are contained in 33 CFR Part 325. However, before reviewing those procedures, a person desiring to perform any activity that requires a Department of the Army permit is advised to review the general and special policies that relate to the particular activity as outlined in this Part 320 and Parts 321 through 324. The terms "navigable waters of the United States" and "waters of the United States" are used frequently throughout these regulations, and it is important that the reader understand the difference from the outset. *"Navigable waters* of the United States" are defined in 33 CFR Part 329. These are waters that are navigable in the traditional sense where permits are required for certain work or structures pursuant to Sections 9 and 10 of the River and Harbor Act of 1899. *"Waters* of the United States" are defined in 33 CFR 323.2(a). These waters include more than navigable waters of the United States and are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act.

§ 320.2 Authorities to issue permits.

(a) Section 9 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 401) (hereinafter referred to as Section 9) prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the waterbody lie wholly within the limits of a single State, the structure may be built under authority of the legislature of that State, if the location and plans or any modification thereof are approved by the Chief of Engineers and by the Secretary of the Army. The instrument of authorization is designated a permit. Section 9 also pertains to bridges and causeways but the authority of the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of Transportation under the Department of Transportation Act of October 15, 1966 (49 U.S.C. 1155g(6)(A)). See also 33 CFR Part 321. A Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States associated with bridges and causeways pursuant to Section 404 of the Clean Water Act. See 33 CFR Part 323.

(b) Section 10 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 403) (hereinafter referred to as Section 10) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or physical capacity of such waters is unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated a permit, general permit, or letter of permission. The authority of the Secretary of the Army to prevent obstructions to navigation in the navigable waters of the United States was extended to artificial islands and fixed structures located on the outer continental shelf by Section 4(e) of the Outer Continental Shelf Lands Act of 1953 as amended (43 U.S.C. 1333(e)). See also 33 CFR Part 322.

(c) Section 11 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 404) authorizes the Secretary of the Army to establish harbor lines channelward of which no piers, wharves, bulkheads or other works may be extended or deposits made without approval of the Secretary of the Army. By policy stated in 33 CFR Part 328, effective May 27, 1970, harbor lines are guidelines only for defining the offshore limits of structures and fills insofar as they impact on navigation interests. Permits for work shoreward of those lines must be obtained in accordance with Section 10 and, if applicable, Section 404 of the Clean Water Act.

(d) Section 13 of the River and Harbor Act approved March 3, 1899 (33 U.S.C.

407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation will not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, Environmental Protection Agency, and the States under Sections 402 and 405 of the Clean Air Act, respectively (33 U.S.C. 1342 and 1345). See 40 CFR Part 124 and Part 125.

(e) Section 14 of the River and Harbor Act approved March 3, 1899 (33 U.S.C. 408) provides that the Secretary of the Army on the recommendation of the Chief of Engineers may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. This permission will be granted by an appropriate real estate instrument in accordance with existing real estate regulations.

(f) Section 404 of the Clean Water Act (formerly known as the Federal Water Pollution Control Act) (33 U.S.C. 1344) (hereinafter referred to as Section 404) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the waters of the United States at specified disposal sites. See 33 CFR Part 323. The selection and use of disposal sites will be in accordance with guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army and published in 40 CFR Part 230. If these guidelines prohibit the selection or use of a disposal site, the Chief of Engineers shall consider the economic impact on navigation of such a prohibition in reaching his decision. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings and after consultation with the Secretary of the Army, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas (See 40 CFR Part 230).

(g) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) (hereinafter referred to as Section 103) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters where it is determined that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological system, or economic potentialities. The selection of disposal sites will be in accordance with criteria, developed by the Administrator of the EPA in consultation with the Secretary of the Army and published in 40 CFR Parts 220–229. However, similar to the EPA Administrator's limiting authority cited in paragraph (f) of this section, the Administrator can prevent the issuance of a permit under this authority if he finds that the dumping of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas. See also 33 CFR Part 324.

§ 320.3 Related legislation.

(a) Section 401 of the Clean Water Act (33 U.S.C. 1341) requires any applicant for a Federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification from the State in which the discharge originates or would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the affected waters at the point where the discharge originates or would originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility.

(b) Section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)), requires Federal agencies conducting activities, including development projects, directly affecting a State's coastal zone, to comply, to the maximum extent practicable, with an approved State coastal zone management program. It also requires any non-Federal applicant for a Federal license or permit to conduct an activity affecting land or water uses in the State's coastal zone to furnish a certification that the proposed activity will comply with the State's coastal zone management program. Generally, no permit will be issued until the State has concurred with the non-Federal applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the State's coastal zone management program. See also 15 CFR Part 930.

(c) Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (16 U.S.C. 1432), authorizes the Secretary of Commerce, after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or of the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Activities in the sanctuary authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations * * *". See Appendix B of 33 CFR Part 230.

(e) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a, *et seq.*), the Migratory Marine Game-Fish Act (16 U.S.C. 760c–760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) and other acts express the will of Congress to protect the quality of the aquatic environment as it affects the conservation, improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal agency that proposes to control or modify any body of water must first consult with the United States Fish and

Wildlife Service, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(f) The Federal Power Act of 1920 (16 U.S.C. 791a *et seq.*), as amended, authorizes the Department of Energy (DOE) to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, power houses, transmission lines, and other physical structures of a hydro-power project. However, where such structures will affect the navigable capacity of any navigable waters of the United States (as defined in 16 U.S.C. 796), the plans for the dam or other physical structures affecting navigation must be approved by the Chief of Engineers and the Secretary of the Army. In such cases, the interests of navigation should normally be protected by a recommendation to the DOE for the inclusion of appropriate provisions in the DOE license rather than the issuance of a separate Department of the Army permit under 33 U.S.C. 401 *et seq.* As to any other activities in navigable waters not constituting construction, operation and maintenance of physical structures licensed by the DOE under the Federal Power Act of 1920, as amended, the provisions of 33 U.S.C. 401 *et seq.* remain fully applicable. In all cases involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of dumping in ocean waters, Section 404 or Section 103 will be applicable.

(g) The National Historic Preservation Act of 1966 (16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President and Congress on matters involving historic preservation. In performing its function the Council is authorized to review and comment upon activities licensed by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places, or eligible for such listing. The concern of Congress for the preservation of significant historical sites is also expressed in the Preservation of Historical and Archeological Data Act of 1974 (16 U.S.C. 469 *et seq.*), which amends the Act of June 27, 1960. By this Act, whenever a Federal construction project or Federally licensed project, activity or program alters any terrain such that significant historical or archeological data is threatened, the Secretary of the Interior may take action necessary to recover and preserve the data prior to the commencement of the project. See also Appendix C to 33 CFR Part 325.

(h) The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 *et seq.*) prohibits any developer or agent from selling or leasing any lot in a subdivision (as defined in 15 U.S.C. 1701(3)) unless the purchaser is furnished in advance a printed property report containing information which the Secretary of Housing and Urban Development may, by rules or regulations, require for the protection of purchasers. In the event the lot in question is part of a project that requires Department of the Army authorization, the Property Report is required by Housing and Urban Development regulation to state whether or not a permit has been applied for, issued, or denied by the Corps of Engineers for the development under Section 10 or Section 404. The Property Report is also required to state whether or not any enforcement action has been taken as a consequence of non-application for or denial of such permit.

(i) The Endangered Species Act (16 U.S.C. 1531 *et seq.*) declares the intention of the Congress to conserve threatened and endangered species and the ecosystems on which those species depend. The Act provides that Federal agencies must utilize their authorities in furtherance of its purposes by carrying out programs for the conservation of endangered or threatened species, and by taking such action necessary to insure that any action authorized by the Agency will not jeopardize the continued existence of such endangered or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary of Interior or Commerce, as appropriate, to be critical. See also 50 CFR Part 17 and 50 CFR Part 402.

(j) The Deepwater Port Act of 1974 (33 U.S.C. 1501 *et seq.*) prohibits the ownership, construction, or operation of a deepwater port beyond the territorial seas without a license issued by the Secretary of Transportation. The Secretary of Transportation may issue such a license to an applicant if he determines, among other things, that the construction and operation of the deepwater port is in the national interest and consistent with national security and other national policy goals and objectives. An application for a deepwater port license constitutes an application for all Federal authorizations required for the ownership, construction, and operation of a deepwater port, including applications for Section 10, Section 404 and Section 103 permits which may also be required and must be issued by the Department of the Army pursuant to the authorities listed in § 320.2 and the policies specified in § 320.4.

(k) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) expresses the intent of Congress that marine mammals be protected and encouraged to develop in order to maintain the health and stability of the marine ecosystem. The Act imposes a perpetual moratorium on the harassment, hunting, capturing, or killing of marine mammals and on the importation of marine mammals and marine mammal products without a permit from either the Secretary of the Interior or the Secretary of Commerce, depending upon the species of marine mammal involved. Such permits may be issued only for purposes of scientific research and for public display if the purpose is consistent with the policies of the Act. The appropriate Secretary is also empowered in certain restricted circumstances to waive the requirements of the Act.

(l) Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 *et seq.*) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

§ 320.4 General policies for evaluating permit applications.

The following policies shall be applicable to the review of all applications for Department of the Army permits. Additional policies specifically

applicable to certain types of activities are identified in Parts 321–324.

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (see e.g., 33 CFR Part 294, Planning Process: Impact Assessment). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) The relative extent of the public and private need for the proposed structure or work;

(ii) The practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

(b) *Effect on wetlands.* (1) Wetlands are vital areas that constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest. For projects to be undertaken by Federal, State, or local agencies, additional guidance on wetlands considerations is stated in Executive Order 11990, dated 24 May 1977.

(2) Wetlands considered to perform functions important to the public interest include:

(i) Wetlands which serve significant natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(ii) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(iii) Wetlands the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;

(iv) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands are often associated with barrier beaches, islands, reefs and bars;

(v) Wetlands which serve as valuable storage areas for storm and flood waters;

(vi) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected; and

(vii) Wetlands which through natural water filtration processes serve significant water purification functions.

(3) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it is part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas in consultation with the appropriate Regional Director of the Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the cumulative effect of activities in such area.

(4) No permit will be granted which involves the alteration of wetlands identified as important by paragraph (b)(2) of this section or because of provisions of paragraph (b)(3) of this section, above, unless the district engineer concludes, on the basis of the analysis required in paragraph (a) of this section, above, that the benefits of the proposed alteration outweigh the damage to the wetlands resource and the proposed alteration is necessary to realize those benefits. In evaluating whether a particular alteration is necessary, the district engineer shall consider whether the proposed activity is primarily dependent on being located in, or in close proximity to the aquatic environment or whether practicable alternative sites are available. The applicant must provide sufficient information on the need to locate the proposed activity in the wetland and must provide data on the basis of which the availability of practicable alternative sites can be evaluated.

(5) In addition to the policies expressed in this subpart, the Congressional policy expressed in the Estuary Protection Act, PL 90–454, and State regulatory laws or programs for classification and protection of wetlands will be given great weight.

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (§ 320.3(e)) Corps of Engineers officials will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the State in which the work is to be performed, with a view to the conservation of wildlife resources by prevention of their directs and indirect loss and damage due to the activity proposed in a permit application. They will give great weight to these views on fish and wildlife considerations in evaluating the application. The applicant will be urged to modify his proposal to eliminate or mitigate any damage to such resources, and in appropriate cases the permit may be conditioned to accomplish this purpose.

(d) *Water quality.* Applications for permits for activities which may affect the quality of a water of the United States will be evaluated for compliance with applicable effluent limitations, water quality standards, and management practices during the construction, operation, and maintenance of the proposed activity. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Clean Water Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA), advises of other water

quality aspects to be taken into consideration. Any permit issued may be conditioned to implement water quality protection measures.

(e) *Historic, cultural, scenic, and recreational values.* Application for permits covered by this regulation may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on the enhancement, preservation, or development of such values (e.g., wild and scenic rivers, registered historic places and natural landmarks, National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, estuarine and marine sanctuaries, archeological resources, including Indian religious or cultural sites, and such other areas as may be established under Federal or state law for similar and related purposes). Recognition of those values is often reflected by State, regional, or local land use classifications, or by similar Federal controls or policies. In both cases, action on permit applications should, insofar as possible, be consistent with, and avoid adverse effect on, the values or purposes for which those classifications, controls, or policies were established.

(f) *Effect on limits of the territorial sea.* Structures or work affecting coastal waters may modify the coast line or base line from which the three mile belt is measured for purposes of the Submerged Lands Act and International Law. Generally, the coast line or base line is the line of ordinary low water on the mainland; however, there are exceptions where there are islands or lowtide elevations offshore (the Submerged Lands Act, 43 U.S.C. 1301(a) and United States v. California, 381 U.S.C. 139 (1965), 382 U.S.C. 448 (1966)). Applications for structures or work affecting coastal waters will therefore be reviewed specifically to determine whether the coast line or base line might be altered. If it is determined that such a change might occur, coordination with the Attorney General and the Solicitor of the Department of the Interior is required before final action is taken. The district engineer will submit a description of the proposed work and a copy of the plans to the Solicitor, Department of the Interior, Washington, D.C., 20240, and request his comments concerning the effects of the proposed work on the outer continental rights of the United States. These comments will be included in the file of the application. After completion of standard processing procedures, the file will be forwarded to the Chief of Engineers. The decision on the application will be made by the Secretary of the Army after coordination with the Attorney General.

(g) *Interference with adjacent properties or water resource projects.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) Because a landowner has the general right to protect his property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, adversely affect public health and safety, adversely impact floodplain or wetland values, or otherwise appear not to be in the public interest, the district engineer will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private engineering firms nor require undue use of government resources. The potential for such harm may be a basis for denial of authorization.

(2) A landowner's general right of access to navigable waters of the United States is subject to the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface. In the case of proposals which create undue interference with access to, or use of, navigable waters, the authorization will generally be denied.

(3) Where it is found that the work for which a permit is desired is in navigable waters of the United States (see 33 CFR Part 329) and may interfere with an authorized Federal project, the applicant should be apprised in writing of the fact and of the possibility that a Federal project which may be constructed in the vicinity of the proposed work might necessitate its removal or reconstruction. The applicant should also be informed that the United States will in no case be liable for any damage or injury to the structures or work authorized by Sections 9 or 10 of the River and Harbor Act of 1899 or by Section 404 of the Clean Water Act which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

(4) Proposed activities which are in the area of a Federal project which exists or is under construction will be evaluated to insure that they are compatible with the purposes of the project.

(h) *Activities affecting coastal zones.* Applications for Department of the Army permits for activities affecting the coastal zones of those States having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued to a non-Federal applicant until certification has been provided that the proposed activity complies with the coastal zone management program and the appropriate State agency has concurred with the certification or has waived its right to do so. However, a permit may be issued to a non-Federal applicant if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interest of national security. Federal agency applicants for Department of the Army permits are responsible for complying with the Coastal Zone Management Act's directives for assuring that their activities directly affecting the coastal zone are consistent, to the maximum extent practicable, with approved State coastal zone management programs.

(i) *Activities in marine sanctuaries.* Applications for Department of the Army authorization for activities in a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, will be evaluated for impact on the marine sanctuary. No permit will be issued until the applicant provides a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary.

(j) *Other Federal, State, or local requirements.* (1) Processing of an application for a Department of the Army permit normally will proceed concurrently with the processing of other required Federal, State, and/or local authorizations or certification. Final action on the Department of the Army permit will normally not be

delayed pending action by the other Federal, State or local agency (see 33 CFR 325.2 (d)(4). However, where the required Federal, State and/or local certification and/or authorization has been denied before final action has been taken on the Army permit, the application for the Army permit will be denied without prejudice to the right of the applicant to reinstate processing of his application if subsequent approval is received from the appropriate Federal, State and/or local agency. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

(2) Where officially adopted Federal, State, regional, local or tribal land-use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest and shall be considered in addition to the other national factors of the public interest identified in § 320.4(a).

(3) A proposed activity may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, district engineers will elicit from the Governor an expression of his views and desires concerning the application or, in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case.

(4) In the absence of overriding national factors of the public interest that may be revealed during the processing of the permit application, a permit will generally be issued following receipt of a favorable State determination provided the concerns, policies, goals, and requirements as expressed in 33 CFR Parts 320–324, and the applicable statutes have been followed and considered: e.g., the National Environmental Policy Act; the Fish and Wildlife Coordination Act; the Historical and Archeological Preservation Act; the National Historic Preservation Act; the Endangered Species Act; the Coastal Zone Management Act; the Marine Protection, Research and Sanctuaries Act of 1972, as amended; the Clean Water Act (see § 320.3), the Archeological Resources Act, and the American Indian Religious Freedom Act. Similarly, a permit will generally be issued for Federal and federally-authorized activities; another Federal agency's determination to proceed is entitled to substantial consideration in the Corps' public interest review.

(5) Permits will not be issued where certification or authorization of the proposed work is required by Federal, State and/or local law or Indian Tribal government and that certification or authorization has been denied prior to final action on the Department of the Army permit.

(6) The district engineers may develop joint procedures with those States and other Federal agencies with ongoing permit programs for activities also regulated by Department of the Army. These may include the use of joint application form; issuance of joint public notices; the conduct of joint public hearings, if held; and the joint review and analysis of information and comments developed in response to the public notice, public hearing, the environmental assessment and the environmental impact statement (if necessary), the Fish and Wildlife Coordination Act, the Historical and Archeological Preservation Act, the National Historic Preservation Act, the Endangered Species Act, the Coastal Zone Management Act, the Marine Protection, Research and Sanctuaries Act of 1972, as amended, the Clean Water Act, the Archeological Resources Act, the American Indian Religious Freedom Act and Executive Orders 11988 and 11990. In such cases, applications for Department of the Army permits may be processed jointly with the State or other Federal applications to an independent conclusion and decision by the district engineer and appropriate Federal or State agency. See 33 CFR 325.2(d)(4).

(7) The district engineer shall develop operating procedures for establishing official communications with Indian Tribes within the district. The procedures shall provide for appointment of a tribal representatives who will receive all public notices, and respond to such notices with the official tribal position on the proposed activity. This procedure shall apply only to those Tribes which accept this option. Any adopted operating procedures shall be distributed by public notice to inform the Tribes of the option.

(k) *Safety of impoundment structures.* To insure that all impound structures are designed for safety, non-Federal applicants may be required to demonstrate that the structure has been designed by qualified persons and, in appropriate cases, that the design has been independently reviewed (and modified as the review would indicate) by similarly qualified persons. (See 33 CFR Part 325).

(l) *Floodplain Management.* (1) Floodplains possess significant natural values and carry out numerous functions important to the public interest. These include:

(i) Water resources values (natural moderation of floods, water quality maintenance, and groundwater recharge);

(ii) Living resource value (fish, wildlife, and plant resources);

(iii) Cultural resource values (open space, natural beauty, scientific study, outdoor education, and recreation); and

(iv) Cultivated resource values (agriculture, aquaculture, and forestry).

(2) Although a particular alteration to a floodplain may constitute a minor change, the cumulative impact of such changes often results in a degradation of floodplain values and functions and results in increased potential for harm to upstream and downstream activities. In accordance with the requirements of Executive Order 11988, district engineers, as part of their public interest review, shall avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains as well as the direct and indirect support of floodplain development whenever there is a practicable alternative. For those activities, which in the public interest, must occur in or impact upon floodplains, the district engineer shall ensure that the impacts of potential flooding on human health, safety and welfare are minimized, the risks of flood losses are minimized, and, whenever possible, the natural and beneficial values served by floodplains are restored and preserved.

(3) In accordance with Executive Order 11988, the district engineer shall avoid floodplain developments whenever practicable alternatives exist outside the floodplain. If there are no practicable alternatives, the district engineer shall consider, as a means of mitigation, alternatives within the floodplain which may lessen any adverse impact to the floodplain.

(m) *Water Conservation.* In his water policy message of June 6, 1978, the President expressed as an important national priority the conservation of our water resources. Water is an essential resource, basic to humans survival, economic growth, and the national environment. Water conservation requires the efficient use of water resources in all actions which involve

the use of water or that affect the availability of water for alternative uses. Full consideration will be given to water conservation as a factor in the public interest review including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements.

2. Part 321 is revised in its entirety.

PART 321—PERMITS FOR DAMS AND DIKES IN NAVIGABLE WATERS OF THE UNITED STATES

Sec.
321.1 General.
321.2 Definitions.
321.3 Special policies and procedures.

Authority: 33 U.S.C. 401.

§ 321.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of Army permits to authorize the construction of a dike or dam in a navigable water of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401). See 33 CFR 320.2(a). Dams and dikes in navigable waters of the United States also require Department of the Army permits under Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344). Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 323 to satisfy the requirements of Section 404.

§ 321.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "dike or dam" means an impoundment structure that completely spans a navigable water of the United States and that may obstruct interstate waterborne commerce. The term does not include a weir which is regulated pursuant to Section 10 of the River and Harbor Act of 1899 (see 33 CFR Part 322).

§ 321.3 Special policies and procedures.

The following additional special policies and procedures shall be applicable to the evaluation of permit applications under this regulation:

(a) The Secretary of the Army will decide whether Department of the Army authorization for a dam or dike in a navigable water of the United States will be issued, since this authority has not been delegated to the Chief of Engineers. The conditions to be imposed in any instrument of authorization will be recommended by the District Engineer when he forwards his report to the Secretary of the Army, through the Chief of Engineers, pursuant to 33 CFR 325.11.

(b) Processing a Department of the Army application under Section 9 will not be completed until the approval of the United States Congress has been obtained if the navigable water of the United States is an interstate waterbody, or until the approval of the appropriate State legislature has been obtained if the navigable water of the United States is solely within the boundaries of one State. The District Engineer, upon receipt of such an application, will notify the applicant that the consent of Congress or the State legislature must be obtained before a permit can be issued.

3. In Part 322, § 322.1–322.5 are revised as follows:

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

Sec.
322.1 General.
322.2 Definitions.
322.3 Activities requiring permits.
322.4 Reserved.
322.5 Special policies and procedures.
Appendix A. U.S. Coast Guard/Chief of Engineers Memorandum of Agreement
Appendix B. Delegation of Authority

Authority: 33 U.S.C. 403.

§ 322.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325 those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of Army permits to authorize certain structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) (hereinafter referred to as Section 10). See 33 CFR 320.2(b). Certain structures or work in or affecting navigable waters of the United States are also regulated under other authorities of the Department of the Army. These include discharges of dredged or fill material into waters of the United States, including the territorial seas, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; see 33 CFR Part 323) and the Transportation of dredged material by vessel for purposes of dumping in ocean waters, including the territorial seas, pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413; see 33 CFR Part 324). A Department of the Army permit will also be required under these additional authorities if they are applicable to structures or work in or affecting navigable waters of the United States. Applicants for Department of the Army permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

§ 322.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "structure" shall include, without limitation, any pier, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction.

(c) The term "work" shall include, without limitation, any dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water of the United States.

(d) The term "letter of permission" means an individual permit issued in accordance with the abbreviated procedures of 33 CFR 325.5(b).

(e) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of this regulation and 33 CFR Part 325 and a determination that the proposed structure or work is in the public interest pursuant to 33 CFR Part 320.

(f) The term "general permit" means a Department of the Army authorization that is issued for a category or categories of structures or work, when

those structures or work are substantially similar in nature, and cause only minimal individual and cumulative adverse environmental impacts. General permits may also be issued to avoid unnecessary duplication of the regulatory control exercised by another Federal agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal, in accordance with procedures set forth in 33 CFR Part 330. General permits may be issued on a nationwide ("nationwide permits") or regional ("regional permits") basis. See 33 CFR Part 330 for details on nationwide permits.

§ 322.3 Activities requiring permits.

(a) *General.* Department of the Army permits are required under Section 10 for structures and /or work in or affecting navigable waters of the United States except for bridges and causeways (see Appendix A) and structures or work licensed under the Federal Power Act of 1920. Activities that were commenced or completed shoreward of established Federal harbor lines before May 27, 1970 (see 33 CFR Part 328) also do not require Section 10 permits; however, if those activities involve the discharge of dredged or fill material into waters of the United States after October 18, 1972, a Section 404 permit is required (see 33 CFR Part 323).

(1) Structures or work are in the navigable waters of the United States if they are within limits defined in 33 CFR Part 329. Structures or work outside these limits are subject to the provisions of law cited in paragraph (a) of this section, if these structures or work affect the course, location, or condition of the waterbody in such a manner as to impact on the physical capacity of the waterbody. For purposes of a Section 10 permit, a tunnel or other structure or work under or over a navigable water of the United States is considered to have an impact on the physical capacity of the waterbody.

(2) Pursuant to Section 154 of the Water Resource Development Act of 1976 (Pub. L. 94–587), Department of the Army permits will not be required under Section 10 to construct wharves and piers in any waterbody, located entirely within one State, that is a navigable water of the United States solely on the basis of its historical use to transport interstate commerce. Section 154 applies only to the construction of a single pier or wharf and not to marinas. Furthermore, Section 154 is not applicable to any pier or wharf that would cause an unacceptable impact on navigation.

(b) *Outer continental shelf.* Department of the Army permits will also be required for the construction of artificial islands and fixed structures on the outer continental shelf pursuant to Section 4(e) of the Outer Continental Shelf Lands Act as amended (see 33 CFR 320.2(b)).

(c) *Activities of Federal agencies.* (1) Except as specifically provided in this subparagraph, activities of the type described in paragraphs (a) and (b), of this section, done by or on behalf of any Federal agency, other than any work or structures in or affecting navigable waters of the United States that are part of the Civil Works activities of the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under this regulation. Division and district engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(2) Congress has delegated to the Secretary of the Army and the Chief of Engineers in Section 10 the duty to authorize or prohibit certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to be sufficient authorization by Congress to satisfy the purposes of Section 10. If an agency asserts that it has Congressional authorization meeting the test of Section 10 or would otherwise be exempt from the provisions of Section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of Section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(3) The policy provisions set out in 33 CFR 320.4(j) relating to State or local certifications and/or authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy, e.g., Section 313 and Section 401 of the Clean Water Act.

§ 322.4 [Reserved]

§ 322.5 Special policies.

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 10 permits. (See Appendix B). The following additional special policies and procedures shall also be applicable to the evaluation of permit applications under this regulation.

(a) *General.* Department of the Army permits are required for structures or work or affecting navigable waters of the United States. However, certain structures or work specified in 33 CFR Part 330 are permitted by that regulation. If a structure or work is not permitted by that regulation, an individual or regional Section 10 permit will be required.

(b) *(Reserved)*

(c) *Non-Federal dredging for navigation.* (1) The benefits which an authorized Federal navigation project are intended to produce will often require similar and related operations by non-Federal agencies (e.g., dredging an access channel to dock and berthing facilities or deepening such a channel to correspond to the Federal project depth). These non-Federal activities will be considered by Corps of Engineers officials in planning the construction and maintenance of Federal navigation projects and, to the maximum practical extent, will be coordinated with interested Federal, State, regional and local agencies and the general public simultaneously with the associated Federal projects. Non-Federal activities which are not so coordinated will be individually evaluated in accordance with this regulation. In evaluating the public interest in connection with applications for permits for such coordinated operations, equal treatment will, therefore, be accorded to the fullest extent possible to both Federal and non-Federal operations. Furthermore, permits for non-Federal dredging operations will normally contain conditions requiring the permittee to comply with the same practices or requirements utilized in connection with related Federal dredging operations with respect to such matters as turbidity, water quality, containment of material, nature and location of approved spoil disposal areas (non-Federal use of Federal contained, disposal areas will be in accordance with laws authorizing such areas and regulations governing their use), extent and period of dredging, and other factors relating to protection of environmental and ecological values.

(2) A permit for the dredging of a channel, slip, or other such project for navigation may also authorize the

periodic maintenance dredging of the project. Authorization procedures and limitations for maintenance dredging shall be prescribed in 33 CFR 325.6(e). The permit will require the permittee to give advance notice to the district engineer each time maintenance dredging is to be performed. Where the maintenance dredging involves the discharge of dredged material into waters of the United States or the transportation of dredged material for the purpose of dumping in the ocean waters, the procedures in 33 CFR Part 323 and 324 shall also be followed.

(d) *Structures for small boats.* (1) As a matter of policy, in the absence of overriding public interest, favorable consideration will generally be given to applications from riparian owners for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of waterway and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action other other forces which can be expected. District Engineers will inform applicants of the hazards involved and encourage safety in location, design and operation. Corps of Engineers officials will also encourage cooperative or group use facilities in lieu of individual proprietor use facilities.

(2) Floating structures for small recreational boats or other recreational purposes in lakes controlled by the Corps of Engineers under a Resources Manager are normally subject to permit authorities cited in § 322.3, above, when those waters are regarded as navigable waters of the United States. However, such structures will not be authorized under this regulation but will be regulated under applicable regulations of the Chief of Engineers published in 36 CFR 327.19 if the land surrounding those lakes is under complete Federal ownership. District engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the lake Resources Manager's office.

(e) *Aids to navigation.* The placing of fixed and floating aids to naviation in a navigable water of the United States is within the purview of Section 10 of the River and Harbor Act of 1899. Furthermore, these aids of particular interest to the U.S. Coast Guard because of their control of marking, lighting and standardization of such navigation aids. A Section 10 nationwide permit has been issued for such aids provided they are approved by and installed in accordance with the requirements of the U.S. Coast Guard (33 CFR Part 330). Electrical service cables to such aids are not included in the nationwide permit (an individual or regional Section 10 permit will be required).

(f) *Outer continental shelf.* Artificial islands and fixed structures located on the outer continental shelf are subject to the standard permit procedures of this regulation. Where the islands or structures are to be constructed on lands are under mineral lease from the Bureau of Land Management, Department of the Interior, that agency, in cooperation with other Federal agencies, fully evaluates the potential effect of the leasing program on the total environment. [Accordingly, the decision whether to issue a permit on lands which are under mineral lease from the Department of the Interior will be limited to an evaluation of the impact of the proposed work on navigation and national security.][1] The public notice will so identify the criteria.

(g) *Canals and other artificial waterways connected to navigable waters of the United States.* (1) A canal or similar artificial waterway is subject to the regulatory authorities discussed in § 322.3, it it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, location, physical condition, or physical capacity or if at some point in its construction it results in an effect on the course, location, physical condition, or physical capacity of navigable waters of the United States. In all cases the connection to navigable waters of the United States requires a permit. Where the canal constitutes a navigable water of the United States, evaluation of the permit application and further exercise of regulatory authority will be in accordance with the standard procedures of this regulation. For all other canals the exercise of regulatory authority is restricted to those activities which affect the course, condition, or capacity of the navigable waters of the United States. Examples of the latter may include the length and depth of the canal; the currents, circulation, quality and turbidity of its waters, especially as they affect fish and wildlife values; and modifications or extensions of its configuration.

(2) The proponent of canal work should submit his application for a permit, including a proposed plan of the entire development, and the location and description of anticipated docks, piers and other similar structures which will be placed in the canal, to the District Engineer before commencing any form of work. If construction of the canal in such a manner as to result in an effect on the course, location physical condition, or physical capacity of the navigable waters of the United States has already taken place without a permit, the district engineer will proceed in accordance with 33 CFR Part 326. Where the construction of the canal would result in an effect on the course, location, physical condition, or physical capacity of navigable waters of the United States, an application for a Section 10 permit should be made at the earliest stage of planning. Where the district engineer becomes aware tht the canal construction has already begun, he will advise the proponent in writing of the need for a permit to the extent that the construction will result in an effect on the course, location, physical condition, or physical capacity of navigable waters of the United States. He will also ask the proponent if he intends to undertake such work and will request the immediate submission of the plans and permit application if it is so intended. The district engineer will also advise the proponent that any work is done at the risk that, if a permit is required, it may not be issued, and that the existence of partially completed excavation work will not be allowed to weigh favorably in evaluation of the permit application.

(h) *Facilities at the borders of the United States.* (1) The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official.

(2) Applications for permits for the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country, or for the

[1] The Corps requests public comment on the following substitution for the bracketed sentence (see discussion in preamble):

Accordingly, in deciding whether to issue a permit on lands which are under mineral lease from the Department of the Interior, the Department's documentation and evaluation of environmental and related issues will be given appropriate deference as provided in the Memorandum of Agreement on this subject entered into between the Department of Interior and the Department of the Army and, where the terms of the Memorandum of Agreement have been satisfied, the public interest review will focus solely on an evaluation of the impact of the proposed work on navigation and national security.

exportation or importation of natural gas to or from a foreign country, must be made to the Secretary of Energy. (Executive Order 10485, September 3, 1953, 16 U.S.C. 824(a)(e), 15 U.S.C. 717(b), as amended by Executive Order 12038, February 3, 1978, and 18 CFR Parts 32 and 153).

(3) Applications for the landing or operation of submarine cables must be made to the Federal Communications Commission. (Executive Order 10530, May 10, 1954, 47 U.S.C. 34 to 39, and 47 CFR 1.766).

(4) The Secretary of State is to receive applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of pipelines, conveyor belts, and similar facilities for the exportation or importation of petroleum products, coals, minerals, or other products to or from a foreign country; facilities for the exportation or importation of water or sewage to or from a foreign country; and monorails, aerial cable cars, aerial tramways and similar facilities for the transportation of persons or things, or both, to or from a foreign country. (Executive Order 11423, August 16, 1968).

(5) A Department of the Army permit under Section 10 of the River and Harbor Act of 1899 is also required for all of the above facilities which affect the navigable waters of the United States, but in each case in which a permit has been issued as provided above, the district engineer, in evaluating the general public interest, may consider the basic existence and operation of the facility to have been primarily examined and permitted as provided by the Executive Orders. Furthermore, in those cases where the construction, maintenance, or operation at the above facilities involves the discharge of dredged or fill material in waters of the United States or the transportation of dredged material for the purpose of dumping it into ocean waters, appropriate Department of the Army authorizations under Section 404 of the Clean Water Act or under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, are also required (see 33 CFR Parts 323 and 324).

(i) *Power transmission lines.* (1) Permits under Section 10 of the River and Harbor Act of 1899 are required for power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Department of Energy under the Federal Power Act of 1920. If an application is received for a permit for lines which are part of such a water power project, the applicant will be instructed to submit his application to the Department of Energy. If the lines are not part of such a water power project, the application will be processed in accordance with the procedures prescribed in this regulation.

(2) The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electrical Safety Code.

Nominal system voltage, kV	Feet[1]
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750–765	45

[1] Minimum additional clearance above clearance required for bridges.

(3) Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings are usually required to be a minimum of ten feet above clearances required for bridges. Greater clearances will be required if the public interest so indicates.

(j) *Seaplane operations.* (1) Structures in navigable waters of the United States associated with seaplane operations require Department of the Army permits, but close coordination with the Federal Aviation Administration (FAA), Department of Transportation, is required on such applications.

(2) The FAA must be notified by an applicant whenever he proposes to establish or operate a seaplane base. The FAA will study the proposal and advise the applicant, district engineer, and other interested parties as to the effects of the proposal on the use of airspace. The district engineer will therefore refer any objections regarding the effect of the proposal on the use of airspace to the FAA, and give due consideration to its recommendations when evaluating the general public interest.

(3) If the seaplane base would serve air carriers licensed by the Civil Aeronautics Board, the applicant must receive an airport operating certificate from the FAA. That certificate reflects determination and conditions relating to the installation, operation, and maintenance of adequate air navigation facilities and safety equipment. Accordingly, the district engineer may, in evaluating the general public interest, consider such matters to have been primarily evaluated by the FAA.

(4) For regulations pertaining to seaplane landings at Corps of Engineers projects see 36 CFR 327.4.

(k) *Foreign trade zones.* The Foreign Trade Zones Act (48 Stat. 998–1003, 19 U.S.C. 81a to 81u, as amended) authorizes the establishment of foreign-trade zones in or adjacent to United States ports of entry under terms of a grant and regulations prescribed by the Foreign-Trade Zones Board. Pertinent regulations are published at Title 15 of the Code of Federal Regulations, Part 400. The Secretary of the Army is a member of the Board, and construction of a zone is under the supervision of the district engineer. Laws governing the navigable waters of the United States remain applicable to foreign-trade zones, including the general requirements of this regulation. Evaluation by a district engineer of a permit application may give recognition to the consideration by the Board of the general economic effects of the zone on local and foreign commerce, general location of wharves and facilities, and other factors pertinent to construction, operation, and maintenance of the zone.

Appendix A—U.S. Coast Guard/Chief of Engineers Memorandum of Agreement

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Appendix B—Deletion of Authority

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4. In Part 323, §§ 323.1–323.6 are revised.

PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

Sec.

Authority: 33 U.S.C. 1344

§ 323.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps

of Engineers in connection with the review of applications for Department of the Army permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) (hereinafter referred to as Section 404). See 33 CFR 320.2(g). Certain discharges of dredged or fill material into waters of the United States are also regulated under other authorities of the Department of the Army. These include dams and dikes in navigable waters of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401; see 33 CFR Part 321) and certain structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403; see 33 CFR Part 322). A Department of the Army permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into waters of the United States. Applicants for Department of the Army permits under this Part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

§ 323.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "waters of the United States" means:[1]

(1) All waters, including their adjacent wetlands, that are part of a surface tributary system to and including navigable waters of the United States (man-made, non-tidal drainage and irrigation ditches excavated on dry land are not considered waters of the United States under this definition);

(2) Interstate waters and their tributaries, including adjacent wetlands; and

(3) All other waters of the United States not identified in paragraphs (1) and (2) above, such as isolated wetlands and lakes, intermittent streams, prairie potholes, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States *if*, in the opinion of the Division Engineer, the degradation or destruction of such waters could affect interstate commerce.[2] The landward limit of jurisdiction in tidal waters, in the absence of adjacent wetlands, shall be the high tide line and the landward limit of jurisdiction in all other waters, in the absence of adjacent wetlands, shall be the ordinary high water mark.

(b) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR Part 329 for a more complete definition of this term.)

(c) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(d) The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands."

(e) The term "lake" means a standing body of open water that occurs in a natural depression fed by one or more streams and from which a stream may flow, that occurs due to the widening or natural blockage or cutoff of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream. The term also includes a standing body of open water created by artifically blocking or restricting the flow of a river, stream, or tidal area. As used in this regulation, the term does not include artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

(f) The term "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(g) The term "high tide line" is the line used in Sec. 404 determinations in the absence of wetlands and means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(h) The term "headwaters" means the point on a non-tidal stream above which the average annual flow is less than five cubic feet per second.[3] The district engineer may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the average runoff coefficient, or by similar means.

(i) The term "dredged material" means material that is excavated or dredged from waters of the United States.

(j) The term "discharge of dredged material" means any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified

[1] The terminology used by the CWA is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity, and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout this regulation.

[2] In defining the jurisdiction of the CWA as the "waters of the United States," Congress, in the legislative history to the Act, specified that the term "be given the broadest constitutional interpretation unencumbered by agency determinations which would have been made or may be made for administrative purposes." The waters listed in paragraphs (a)(1) and (2) fall within this mandate as discharges into those waterbodies may seriously affect water quality, navigation, and other Federal interests; however, it is also recognized that the Federal government would have the right to regulate the waters of the United States identified in paragraph (a)(3) under this broad Congressional mandate to fulfill the objective of the Act: "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (Section 101(a)). Paragraph (a)(3) incorporates all other waters of the United States that could be regulated under the Federal government's Constitutional powers to regulate and protect interstate commerce, including those for which the connection to interstate commerce may not be readily obvious or where the location or size of the waterbody generally may not require regulation through individual or regional permits to achieve the objectives of the Act. Therefore, discharges of dredged or fill material into waters of the United States will require individual or regional permits unless those discharges are permitted through 33 CFR 330.4 as nationwide permits.

[3] For streams that are dry during long periods of the year, district engineers may establish the headwater point as that point on the stream where a flow of five cubic feet per second is equaled or exceeded 50 percent of the time.

discharge site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to Section 402 of the Clean Water Act even though the extraction and deposit of such material may require a permit from the Corps of Engineers. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(k) The term "fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 402 of the Clean Water Act.

(l) The term "discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: Placement of fill that is necessary to the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(m) The term "individual permit" means a Department of the Army authroization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this regulation and 33 CFR Part 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR Part 320.

(n) The term "general permit" means a Department of the Army authorization that is issued for a category or categories of discharges of dredged or fill material that are substantially similar in nature and cause only minimal individual and cumulative adverse environmental impacts. General permits may also be issued to avoid unnecessary duplication of the regulatory control exercised by another Federal agency provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal, in accordance with procedures set forth in 33 CFR Part 330. General permits may be issued on a nationwide ("nationwide permits") or regional ("regional permits") basis. See 33 CFR Part 330 for details on nationwide permits.

§ 323.3 Discharges requiring permits.

(a) *General.* Except as provided in § 323.4, Department of the Army permits will be required for the discharge of dredged or fill material into waters of the United States. Certain discharges specified in 33 CFR Part 330 are permitted by that regulation ("nationwide permits"). Other discharges may be authorized by district engineers on a regional basis ("regional permits"). If a discharge of dredged or fill material is not exempted by § 323.4 or permitted by 33 CFR Part 330, an individual or regional Section 404 permit will be required for the discharge of dredged or fill material into waters of the United States.

(b) *Activities of Federal agencies.* Discharges of dredged or fill material into waters of the United States done by or on behalf of any Federal agency, other than the Corps of Engineers (see 33 CFR 209.145), are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under the regulation. Division and district engineers will therefore advise Federal agencies and instrumentalities accordingly and cooperate to the fullest extent in the expeditious processing of their applications.

§ 323.4 Discharges not requiring permits.

(a) *General.* Except as specified in paragraphs (b) and (c) of this section, any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under Section 404:

(1)(i) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices, as defined in paragraph (a)(1)(iii) of this section.

(ii) To fall under this exemption, the activities specified in paragraph (a)(1)(i) of this section must be part of an established (i.e., on-going) farming, silviculture, or ranching operation. Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation. Activities which bring an area into farming, silviculture, or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations. If an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a Section 404 permit, whether or not it is part of an established farming, silviculture, or ranching operation.

(iii)(A) Cultivating means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality or yield.

(B) Harvesting means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silvicultural lands to bring about their removal from farm, forest, or ranch land, but does not include the construction of farm, forest, or ranch roads.

(C)(1) Minor Drainage means:

(i) The discharge of dredged or fill material incidental to connecting upland drainage facilities to waters of the United States, adequate to effect the removal of excess soil moisture from upland croplands. (Construction and maintenance of upland (dryland) facilities, such as ditching and tiling, incidential to the planting, cultivating, protecting, or harvesting of crops, involve no discharge of dredged or fill material into waters of the United States, and as such never require a Section 404 permit.);

(ii) The discharge of dredged or fill material for the purpose of installing ditching or other such water control facilities incidental to planting, cultivating, protecting, or harvesting of rice, cranberries or other wetland crop species, where these activities and the discharge occur in waters of the United States which are in established use for such agricultural and silvicultural wetland crop production;

(*iii*) The discharge of dredged or fill material for the purpose of manipulating the water levels of, or regulating the flow or distribution of water within, existing impoundments which have been constructed in accordance with applicable requirements of CWA, and which are in established use for the

production of rice, cranberries, or other wetland crop species.[4]

(*iv*) The discharge of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flood flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting, or cultivating of crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected drainageway as it existed prior to the formation of the blockage. Removal must be accomplished within one year of formation of such blockages in order to be eligible for exemption.

(*2*) Minor drainage in waters of the U.S. is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from one wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting waters of the United States. Any discharge of dredged or fill material into the waters of the United States incidental to the construction of any such structure or waterway requires a permit.

(D) Plowing means all forms of primary tillage, including moldboard, chisel, or wide-blade plowing, discing, harrowing and similar physical means utilized on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. The term does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any area of the waters of the United States to dry land. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the reduction of water storage and recharge capabilities, or the overburden of natural water filtration capacities do not constitute plowing. Plowing will never involve a discharge of dredged or fill material.

(E) Seeding means the sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

(2) Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(3) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches. A simple connection of an irrigation return or supply ditch to waters of the U.S. and related bank stabilization measures are included within this exemption. Where a trap, weir, groin, wall, jetty or other structure within water of the U.S., which will result in significant discernable alterations to flow or circulation, is constructed as part of the connection, such construction requires a 404 permit.

(4) Construction of temporary sedimentation basin on a construction site which does not include placement of fill material into waters of the U.S. The term "construction site" refers to any site involving the erection of buildings, roads, and other discrete structures and the installation of support facilities necessary for construction and utilization of such structures. The term also include any other land areas which involve land-disturbing excavation activities, including quarrying or other mining activities, where an increase in the runoff of sediment is controlled through the use of temporary sedimentation basins.

(5) Any activity with respect to which a State has an approved program under section 208(b)(4) of CWA which meets the requirements of sections 208(b)(4)(B) and (C).

(6) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired, that the reach of the waters of the United States is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized. These EMPs which must be applied to satisfy this provision shall include those detailed EMPs described in the State's approved program description pursuant to the requirements of 40 CFR 123.4(h)(4), and shall also include the following baseline provisions:

(i) Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging) in waters of the U.S. shall be held to the minimum feasible member, width, and total length consistent with the purpose of specific farming, silvicultural or mining operations, and local topographic and climatic conditions;

(ii) All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into waters of the U.S.;

(iii) The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows;

(iv) The fill shall be properly stabilized and maintained during and following construction to prevent erosion;

(v) Discharges of dredged or fill material into waters of the United States to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself;

(vi) In designing, constructing, and maintaining roads, vegetative disturbance in the waters of the U.S. shall be kept to a minimum;

(vii) The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body;

(viii) Borrow material shall be taken from upland sources whenever feasible;

(ix) The discharge shall not take, or jeopardize the continued existence of, a threatened or endangered species as defined under the Endangered Species

[4] The provisions of paragraphs (a)(1)(iii)(C)(1)(ii) and (iii) of this section apply to areas that are in established use exclusively for wetland crop production as well as areas in established use for conventional wetland/non-wetland crop rotation (e.g., the rotations of rice and soybeans) where such rotation results in the cyclical or intermittent temporary dewatering of such areas.

Act, or adversely modify or destroy the critical habitual of such species;

(x) Discharge into breeding and nesting areas for migratory waterfowl, spawning areas, and wetlands shall be avoided if practical alternatives exist;

(xi) The discharge shall not be located in the proximity of a public water supply intake;

(xii) The discharge shall not occur in areas of concentrated shellfish production;

(xiii) The discharge shall not occur in a component of the National Wild and Scenic River System;

(xiv) The discharge of material shall consist of suitable material free from toxic pollutants in toxic amounts; and

(xv) All temporary fills shall be removed in their entirety and the area restored to its original elevation.

(b) If any discharge of dredged or fill material resulting from the activities listed in paragraphs (a)(1)–(6) of this section contains any toxic pollutant listed under section 307 of CWA such discharge shall be subject to any applicable toxic effluent standard or prohibition, and shall require a permit under the State program.

(c) Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in paragraphs (a)(1)–(6) of this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration.[5]

(d) Federal projects which qualify under the criteria contained in Section 404(r) of CWA (Federal projects authorized by Congress where an EIS has been submitted to Congress prior to authorization or an appropriation) are exempt from Section 404 permit requirements, but may be subject to other State or Federal requirements.

[5] For example, a permit will be required for the conversion of a cypress swamp to some other use or the conversion of a wetland from silvicultural to agricultural use when there is a discharge of dredged or fill materials dikes, drainage ditches or other works or structures used to effect such conversion. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters of the United States.

§ 323.5 Program transfer to States.

Section 404(h) of the Clean Water Act allows the Administrator of the Environmental Protection Agency to transfer administration of the Section 404 permit program for discharges into certain waters of the United States to qualified states. (The program cannot be transferred for those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shorewared to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to the high tide line, including wetlands adjacent thereto). See 40 CFR part 123 for procedural regulations for transferring Section 404 programs to states. Once a state's 404 program is approved, the Corps of Engineers will suspend processing of Section 404 permits in the applicable waters and will transfer pending applications to the State agency responsible for administering the program.

§ 323.6 Special policies and procedures.

(a) The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 404 permits. (See Appendix A). Applications for permits for the discharge of dredged or fill material into waters of the United States will be reviewed in accordance with guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act. (See CFR Part 230.) If the EPA guidelines alone prohibit the designation of a proposed disposal site, the economic impact on navigation and anchorage of the failure to authorize the use of the proposed disposal site will also be considered in evaluating whether or not the proposed discharge is in the public interest.

(b) The Corps will not issue a permit where the Regional Administrator of EPA has notified the district engineer and applicant in writing pursuant to 40 CFR 231.3(a)(1) that he intends to issue a public notice of a proposed determination to prohibit or withdraw the specification, or to deny, restrict or withdraw the use for specification, of any defined area as a disposal site in accordance with Section 404(c) of the Clean Water Act. However the Corps will continue to complete the administrative processing of the application while the Section 404(c) procedures are underway including completion of final coordination with EPA under 33 CFR Part 325.

Appendix A—Delegation of Authority

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5. In Part 324, §§ 324.1—324.4 are revised.

PART 324—PERMITS FOR OCEAN DUMPING OF DREDGED MATERIAL

Sec.

Authority: 33 U.S.C. 1413.

§ 324.1 General.

This regulation prescribes in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the transportation of dredged material by vessel for the purpose of dumping it in ocean waters at dumping sites designated under 40 CFR Part 228 pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413) (hereinafter referred to as Section 103). See 33 CFR 320.2(h). Actvities involving the transportation of dredged material for the purpose of dumping in the ocean waters also require Department of the Army permits under Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) for the dredging in navigable waters of the United States. Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 322 to satisfy the requirements of Section 10.

§ 324.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(b) The term "dredged material" means any material excavated or dredged from navigable waters of the United States or ocean waters.

(c) The term "transport" or "transportation" refers to the carriage and related handling of dredged material by a vessel.

§ 324.3 Activities requiring permits.

(a) *General.* Department of the Army permits are required for the transportation of dredged material for

the purpose of dumping it in ocean waters.

(b) *Activities of Federal agencies.* (1) The transportation of dredged material for the purpose of dumping in ocean waters done by or on behalf of any Federal agency other than the activities of the Corps of Engineers are subject to the procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under the regulation. Division and district engineers will therefore advise Federal agencies accordingly and cooperate to the fullest extent in the expeditious processing of their applications. The activities of the Corps of Enginners that involve the transportation of dredged material for dumping in ocean waters are regulated by 33 CFR 209.145.

(2) The policy provisions set out in 33 CFR 320.4(j) relating to state or local authorizations do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive and procedural state, interstate, and local water-quality standards and effluent limitations as are applicable by law that are adopted in accordance with or effective under the provisions of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and related laws in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 12088, dated October 18, 1978.) They are not required, however, to obtain and provide certification of compliance with effluent limitations and water-quality standards from state or interstate water pollution control agencies in connection with activities involving the transport of dredged material for dumping into ocean waters beyond the territorial sea.

§ 324.4 Special procedures.

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 103 permits. (See Appendix A.) The following additional procedures shall also be applicable under this regulation.

(a) *Public notice.* For all applications for Section 103 permits, the district engineer will issue a public notice which shall contain the information specified in 33 CFR 325.3.

(b) *Evaluation.* Applications for permits for the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated to determine whether the proposed dumping will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems or economic potentialities. In making this evaluation, criteria established by the Administrator, EPA, pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, shall be applied including an evaluation of the need for the ocean dumping and including the availability of alternatives to ocean dumping. Where ocean dumping is determined to be necessary, the district engineer will, to the extent feasible, specify disposal sites using the recommendations of the Administrator pursuant to Section 102(c) of the Act. See 40 CFR Parts 220 to 229.

(c) *EPA review.* If the Regional Administrator, EPA, advises the district engineer that the proposed dumping will comply with the criteria, the district engineer shall complete his evaluation of the Section 103 application under this regulation and 33 CFR Parts 320 and 325. If, however, the Regional Administrator advises the district engineer that the proposed dumping will not comply with the criteria, the district engineer will proceed as follows.

(1) The district engineer shall determine whether there is an economically feasible alternative method or site available other than the proposed ocean disposal site. If there are other feasible alternative methods or sites available, the district engineer shall evaluate them in accordance with 33 CFR Parts 320, 322, 323, 325 and this regulation, as appropriate.

(2) If the district engineer makes a determination that there is no economically feasible alternative method or site available, he shall so advise the Regional Administrator of his intent to issue the permit setting forth his reasons for such determination.

(d) *EPA objection.* If the Regional Administrator advises, within 15 days of the notice of the intent to issue, that he will commence procedures specified by Section 103(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 to prohibit designation of the disposal site, the case will be forwarded to the Chief of Engineers for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain, in addition to the analysis required by 33 CFR 325.11, an analysis of whether there are other economically feasible methods or sites available to dispos of the dredged material.

(e) *Chief of Engineers review.* The Chief of Engineers shall evaluate the permit application and make a decision to deny the permit or recommend its issuance. If the decision of the Chief of Engineers is that ocean dumping at the proposed disposal site is required because of the unavailability of economically feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator, EPA, of the criteria or of the critical site designation in accordance with 40 CFR 225.4.

Appendix A—Delegation of Authority

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6. In Part 325, §§ 325.1–325.11 are revised. Appendix B is deleted and reserved, and Appendices D–H are added.

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

Sec.

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 325.1 Applications for permits.

(a) *General.* The processing procedures of this regulation (Part 325) apply to any form of Department of the Army permit. Special procedures and additional information are contained in Parts 320 through 324. This Part is arranged in the basic timing sequence used by the Corps of Engineers in processing Department of the Army permits.

(b) *Pre-application consultation for major applications.* The district staff

element having responsibility for administering, processing, and enforcing Federal laws and regulations relating to the Corps of Engineers regulatory program shall be available to advise potential applicants of studies or other information foreseeably required for later Federal action. The district engineer will establish local procedures and policies including appropriate publicity programs which will allow potential permit applicants to contact the district engineer or the staff element to request pre-application consultation. Upon receipt of such request, the district engineer will assure the conduct of an orderly process which may involve other staff elements and affected agencies (Federal, State, or local) and the public. This early process should be brief but thorough so that the applicant may begin to assess the viability of some of the more obvious alternatives as he prepares his permit application. The applicant, at this stage, should be made aware of the full range of alternatives (as discussed in paragraph 14b(5) of Appendix B of 33 CFR Part 230) which the Corps must consider in its permit decision making process. Whenever the district engineer becomes aware of planning for work which may require a Department of the Army permit and which would involve the preparation of an environmental document, he shall contact the principals involved to advise them of the requirement for the permit(s) and the attendant public interest review including the development of an environmental document. Whenever a potential permit applicant indicates the intent to submit an application for work which may require the preparation of an environment document, a single point of contact shall be designated within the district's regulatory staff to effectively coordinate, as they occur, the regulatory process, including the National Environmental Policy Act (NEPA) procedures and all attendant reviews, meetings, hearings, and other actions, including the scoping process if appropriate, leading to a decision kby the district engineer. Effort devoted to this process should be commensurate with the likelihood of a permit application actually being submitted to the Corps. The regulatory staff coordinator shall maintain an open relationship with each applicant or his consultants so as to assure that the applicant is fully aware of the substance (both quantitative and qualitative) of the data required by the district engineer for his use in preparing an Environmental Assessment or an Environment Impact Statement (EIS). The actual development of the scope of data required in cases requiring an EIS should be the product of the formal "scoping" process discussed in 33 CFR Part 230.

(c) *Application form.* Any person proposing to undertake any activity requiring Department of the Army authorization as specified in 33 CFR Parts 321–324 must apply for a permit to the district engineer in charge of the district where the proposed activity is to be performed. Applications for permits must be prepared in accordance with instructions in Engineer Pamphlet 1145–2–1, "A Guide for Applicants," utilizing the prescribed application form (ENG Form 4345, OMB Approval No. OMB 49–R0420). The form and pamphlet may be obtained from the district engineer having jurisdiction over the waters in which the proposed activity will be located. Local variations of the application form for purposes of facilitating coordination with State and local agencies may be used.

(d) *Content of application.* (1) Generally, the application must include a complete description of the proposed activity including necessary drawings, sketches or plans; the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other Federal, interstate, State or local agencies for the work, including all approvals received or denials already made.

(2) All activities which are reasonably related to the same project and for which a Department of the Army permit would be required should be included in the same permit application. District engineers should reject, as incomplete, any permit application which fails to comply with this requirement. For example, a permit application for a marina will include dredging required for access as well as any fill associated with construction of the marina.

(3) If the activity would involve dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(4) If the activity would include the discharge of dredged or fill material in the waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters, the application must include the source of the material; a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site. (See 33 CFR Parts 324 for additional information requirements on ocean dumping applications.) Certification under Section 401 of the Clean Water Act is require for such discharges into waters of the United States.

(5) If the activity would include the construction of a fill or pile or float-supported platform, the project description must include the use and specific structures to be erected on the fill or platform.

(6) If the activity would involve the construction of an impoundment structure, the applicant may be required to submit general design criteria and standards and other appropriate information in order for the district engineer to satisfy himself that the design will be based on acceptable criteria and standards from a safety standpoint. Non-Federal applicants may be required to demonstrate that the structure has been designed by qualified persons and, in appropriate cases, independently reviewed (and modified as the review would indicate) by similarly qualified persons. No specific design criteria are to be prescribed nor is an independent detailed engineering review to be made by the district engineer.

(e) *Additional information.* In addition to the information indicated in paragraph (d), above, the applicant will be required to furnish such additional information as the district engineer may deem necessary to assist him in his evaluation of the application. Such additional information may include environmental data and information on alternate methods and sites as may be necessary for the preparation of the required environmental documentation.

(f) *Signature of application.* The application must be signed by the person who desires to undertake the proposed activity or by a duly authorized agent if accompanied by a statement by that person designating the agent and agreeing to furnish, upon request, supplemental information in support of the application. In either case, the signature of the applicant or his agent will be understood to be an affirmation that he possesses the requisite property interest to undertake the activity proposed in his application, except where the lands are under the control of the Corps of Engineers, in which cases the district engineer will coordinate the transfer of the real estate and the permit action. When the application is submitted by an agent, the application may include the activity of more than one owner provided the

character of the activity of each owner is similar and in the same general area.

(g) *Fees.* Fees are required for permits under Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charged for permit applications when the proposed work is non-commercial in nature and would provide personal benefits that have no connection with a commercial enterprise. The final decision as to basis for fee (commercial vs. non-commercial) shall be solely the responsibility of the district engineer. No fee will be charged if the applicant withdraws his application at any time prior to issuance of the permit and/or if his application is denied. Collection of the fee will be deferred until the proposed activity has been determined to be in the public interest. At that time, the district engineer will furnish the applicant two copies of the unsigned permit for his signature. He will also notify the applicant of the required fee and will request that any check or money order be made payable to the Treasurer of the United States. The permit will then be issued upon receipt of the application fee and the two signed permit copies. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions, general permits or letters of permission. Agencies or instrumentalities of Federal, State or local governments will not be required to pay any fee in connection with permits. This fee structure will be reviewed from time to time.

§ 325.2 Processing of applications.

(a) *Standard procedures.* (1) When an application for a permit is received, the district engineer shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness, and request from the applicant within 15 days of receipt of the application any additional information he deems necessary for further processing.

(2) Within 15 days of receipt of all required information, the district engineer will issue a public notice as described in § 325.3, below, unless specifically exempted by other provisions of this regulation. The district engineer will issue a supplemental, revised, or corrected public notice if in his view there is a change in the application data that would affect the public's review of the proposal (e.g., new test results on an ocean dumping application).

(3) The district engineer will consider all comments received in response to the public notice in his subsequent actions on the permit application. Receipt of the comments will be acknowledged and they will be made a part of the official file on the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the district engineer may seek the advice of that agency. At the earliest practicable time, the applicant must be given the opportunity to furnish the district engineer his proposed resolution or rebuttal to all objections from other Government agencies and other substantive adverse comments before final decision will be made on the application. The applicant may voluntarily elect to contact objectors in an attempt to resolve objections but will not be required to do so.

(4) The district engineer will follow Appendix B of 33 CFR Part 230 for environmental procedures and documentation required by the National Environmental Policy Act of 1969. A permit application will require either an Environmental Assessment or an Environmental Impact Statement unless it falls under a Categorical Exclusion.

(5) The district engineer will also evaluate the proposed application to determine the need for a public hearing pursuant to 33 CFR Part 327.

(6) After all above actions have been completed, the district engineer will determine in accordance with the record and applicable regulations whether or not the permit should be issued. He shall prepare a Findings of Fact or a Record of Decision (if an Environmental Impact Statement has been prepared) on all applications outlining his determination. The Findings of Fact or Record of Decision shall include the district engineer's views on the probable effect of the proposed work on the public interest including comformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or with the criteria for dumping of dredged material in ocean waters (40 CFR parts 220 to 229), if applicable, and the conclusions of the district engineer. The Findings of Fact shall be dated, signed, and included in the record prior to final action on the application. Where the district engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the Findings of Fact. If a permit is warranted, the district engineer will determine the conditions and duration which should be incorporated into the permit. In accordance with the authorities specified in § 325.8, the district engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final EIS or Environmental Assessment, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed in § 325.11. District and division engineers will notify the applicant and interested Federal agencies that the application has been forwarded to higher headquarters. The district or division engineer may, at his option, disclose his recommendation to the news media and other interested parties, with the caution that this is only a recommendation and not a final decision. Such disclosure is encouraged in permit cases which have become controversial and have been the subject of stories in the media or have generated strong public interest. In those cases where the application is forwarded for decision in the format prescribed in § 325.11, the report will serve as the Findings of Fact.

(7) If the final decision is to deny the permit, the applicant will be advised in writing of the reason(s) for denial. If the final decision is to issue the permit and a standard individual permit form will be used, the issuing official will forward two copies of the draft permit to the applicant for signature accepting the conditions of the permit. The applicant will return both signed copies to the issuing official who then signs and dates the permit. The permit is not valid until signed by the issuing official. Letters of permission will be issued in letter form (signed by the issuing official only). Final action on the permit application is the signature on the letter notifying the applicant of the denial of the permit or signature of the issuing official on the authorizing document.

(8) The district engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. It will also note that relevant

Environmental documentations and the Findings of Fact (Record of Decision if Environmental Impact Statement prepared) are available upon written request and, where applicable, upon the payment of administrative fees. This list will be distributed to all persons who may have an interest in any of the public notices listed.

(b) *Procedures for particular types of permit situations.* (1) If the district engineer determines that water quality certification for the proposed activity is necessary under the provisions of Section 401 of the Clean Water Act, he shall so notify the applicant and obtain from him or the certifying agency a copy of such certification. The district engineer may issue the public notice of the application jointly with the certifying agency if arrangements for such joint notices have been approved by the division engineer.

(i) The public notice for such activity, which will contain a statement on certification requirements (see § 325.3(a)(7)), will serve as the notification to the Administrator of the Environmental Protection Agency (EPA) pursuant to Section 401(a)(2) of the Clean Water Act. If EPA determines that the proposed discharge may affect the quality of the waters of any State other than the State in which the discharge will originate, it will so notify such other State, the district engineer, and the applicant. If such notice or a request for supplemental information is not received within 30 days of issuance of the public notice, the district engineer will assume EPA has made a negative determination with respect to Section 401(a)(2). If EPA does determine another State's waters may be affected, such State has 60 days from receipt of EPS's notice to determine if the proposed discharge will affect the quality of its waters so as to violate any water quality requirement in such State, to notify EPA and the district engineer in writing of its objection to permit issuance, and to request a public hearing. If such occurs, the district engineer will hold a public hearing in the objecting State. Except as stated below, the hearing will be conducted in accordance with 33 CFR Part 327. The issues to be considered at the public hearing will be limited to water quality impacts. EPA will submit its evaluation and recommendations at the hearing with respect to the State's objection to permit issuance. Based upon the recommendations of the objecting State, EPA, and any additional evidence presented at the hearing, the district engineer will condition the permit, if issued, in such a manner as may be necessary to insure such compliance with applicable water quality requirements. If the imposition of conditions cannot, in the district engineer's opinion, insure compliance, he will not grant the permit.

(ii) No permit will be granted until required certification has been obtained or has been waived. Waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within a reasonable period of time after receipt of such request. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced, the district engineer will verify that the certifying agency has received a valid request for certification. Sixty days shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the district engineer require that action on an application be taken within a more limited period of time, the district engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly if it appears that circumstances may reasonably require a period of time longer than sixty days, the district engineer may afford the certifying agency up to one year to provide the required certification before determining that a waiver has occured. District engineers shall check with the certifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(2) If the proposed activity is to be undertaken in a State operating under a coastal zone management program approved by the Secretary of Commerce pursuant to the Coastal Zone Management Act (see 33 CFR 320.3(b)), the district engineer shall proceed as follows:

(i) If the applicant is a Federal agency, and the application involves a Federal activity in or affecting the coastal zone or a Federal development project in the coastal zone, the district engineer shall forward a copy of the public notice to the agency of the State responsible for reviewing the consistency of Federal activities. The Federal agency applicant shall be responsible for complying with the Coastal Zone Management Act's directive for ensuring that Federal agency activities are undertaken in a manner which is consistent, to the maximum extent practicable, with approved Coastal Zone Management Program. (See 15 CFR Part 930.) If the State coastal zone agency objects to the proposed Federal activity on the basis of its inconsistency with the State's approved Coastal Zone Mangement Program, the district engineer shall not make a final decision on the application until the disagreeing parties have had an opportunity to utilize the procedures specified by the Coastal Zone Management Act for resolving such disagreements.

(ii) If the applicant is not a Federal agency and the application involves an activity affecting the coastal zone, the district engineer shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. Upon receipt of the certification, the district engineer will forward a copy of the public notice (which will include the applicant's certification statement) to the State coastal zone agency and request its concurrence or objection. The district engineer can issue the public notice of the application jointly with the State agency if arrangements for such joint notices have been approved by the division engineer. If the State agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the district engineer shall not issue the permit unitl the State concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the Coastal Zone Management Act or is necessary in the interest of national security. If the State agency fails to concur or object to a certification statement within six months of the State agency's receipt of the certification statement, State agency concurrence with the certification statement shall be conclusively presumed.

(iii) If the applicant is requesting a permit for work on Indian reservation lands which are in the coastal zone, the district engineer shall treat the application in the same manner as prescribed for a Federal applicant in paragraph (b)(2)(i) of this section. However, if the applicant is requesting a permit on non-trust Indian lands and the state CZM agency has decided to assert jurisdiction over such lands, the district engineer shall treat the application in the same manner as prescribed for a non-Federal applicant in paragraph (b)(2)(ii) of this section.

(3) If the proposed activity would involve any property listed or eligible

for listing in the National Register of Historic Places (which is published in its entirety in the **Federal Register** annually in February with addenda published each month), the district engineer will proceed in accordance with Appendix C.

(4) If the proposed activity would consist of the dredging of an access channel and/or berthing facility associated with an authorized Federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the Federal project to the minimum extent feasible. Separate notice, hearing, and environmental documentation will not be required for activities so included and coordinated; and the public notice issued by the district engineer for these Federal and associated non-Federal activities will be the notice of intent to issue permits for those included non-Federal dredging activities. The decision whether to issue or deny such a permit will be consistent with the decision on the Federal project unless special considerations applicable to the proposed activity are identified. (See § 322.5(a)).

(5) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(i) If the activity involves the construction of structures or artificial islands on the outer continental shelf, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390 Attention, Code N512 and to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(ii) If the activity involves the construction of structures to enhance fish propagation (e.g., fishing reefs) along the coasts of the United States, to Defense Mapping Agency, Hydrographic Center and National Ocean Survey as in paragraph (b)(5)(i), of this section, and to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iii) If the activity involves the erection of an aerial transmission line across a navigable water of the United States, to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, reference C322.

(iv) If the activity is listed in paragraphs (b)(5)(i), (ii), or (iii), of this section, or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(6) A copy of each permit application and each permit issued will be made available to the public. Such permit application or portion thereof will further be available on request for the purpose of reproduction.

(c) *Emergency procedures.* Division engineers are authorized to approve special processing procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a severe loss of property, or an immediate, unforeseen, and severe economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under required procedures. In emergency situations the district engineer will explain the circumstances and recommend special procedures to the division engineer who will instruct the district engineer as to further processing of the application. Even in an emergency situation, reasonable efforts will be made to receive comments from interested Federal, State, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published. Special procedures normally will not be authorized where the permit applicant has unreasonably contributed to the creation of the emergency situation.

(d) *Timing of processing of application.* In view of the extensive coordination with other agencies and the public and the study of all aspects of proposed activities required by the above procedures, applicants must allow adequate time for the processing of their applications. The district engineer will be guided by the following time limits for the indicated steps in processing permit applications:

(1) The public notice will be issued within 15 days of receipt of all information required to complete an application in accordance with § 325.1.

(2) The receipt of comments as a result of the public notice should not extend beyond 30 days from the date of the notice. However, if unusual circumstances warrant, the district engineer may extend the comment period up to a maximum of 75 days.

(3) District engineers will decide on all applications not later than 90 days after issuance of the public notice, unless (i) precluded as a matter of law or procedures required by law (see below), (ii) the case must be referred to higher authority (see § 325.8), (iii) the comment period is extended more than a total of 45 days from the date of the public notice, (iv) a timely rebuttal or resolution of objections is not received from the applicant, (v) the processing is suspended at the request of the applicant, or (vi) information needed by the district engineer for a decision on the application cannot reasonably be obtained within the 90-day period. Once the cause for preventing the application from being processed in the normal 90-day period has been satisfied or eliminated, the 90-day clock will start running again. For example, if the comment period is extended to 75 days (30 days more than the 45 days mentioned above), the district engineer will, absent other restraints, decide on the application within 120 days from the date of the public notice. Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the National Historic Preservation Act, the Preservation of Historical and Archeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the Marine Protection, Research and Sanctuaries Act) require procedures such as State or other Federal agency certifications, public hearings, environmental impact statements, consultation, special studies and testing which may prevent district engineers from being able to decide certain applications within 90 days.

(4) The district engineer may develop joint procedures with other Federal, state or local agencies where their authorizations are also required in conjunction with the activity (see 33 CFR 320.4(j)). Once the public comment period has closed (or, at the latest, on the ninetieth day following the public notice) and the district engineer has sufficient information to make his public interest determination, he should decide the permit application even through the other agencies have not yet granted their authorizations, except where such authorizations are, by Federal law, a prerequisite to making a decision on the Army permit application. Permits granted prior to other (non-prerequisite) authorizations by other agencies should, where appropriate, be conditioned in such manner as to give those other authorities an opportunity to undertake their review without the applicant biasing such review by making substantial resource commitments on the basis of the Army permit. In an unusual case, the district engineer may decide that due to the nature or scope of a specific proposal, it would be prudent to defer taking final action until another agency has acted on its authorization. In such cases, he may advise the other agency of his position on the Army permit while deferring his final decision.

(5) If the applicant fails to respond within 45 days to any request or inquiry of the district engineer, the district

engineer may advise the applicant by certified letter that his application will be considered as having been withdrawn unless the applicant responds thereto within thirty days of the date of the letter.

(e) *Endangered species.* Applications will be reviewed for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. If the district engineer determines that the proposed activity would not affect listed species or their critical habitats, he will include a statement to this effect in the public notice. If he finds the proposed activity may jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, he will initiate formal consultation procedures with the U.S. Fish and Wildlife Service or National Marine Fisheries Service by including a statement to this effect in the public notice (or will amend any previous notice with a contrary statement). Public notices forwarded to the U.S. Fish and Wildlife Service or National Marine Fisheries Service will serve as the request for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity, pursuant to Section 7(c) of the Act. References, definitions, and consultation procedures are found in 33 CFR Part 306.

§ 325.3 Public notice.

(a) *General.* The public notice is the primary method of advising all interesting parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment. The notice should include the following items of information:

(1) Applicable statutory authority or authorities;

(2) The name of address of the applicant;

(3) The name or title, address and telephone number of the Corps employee from whom additional information concerning the application may be obtained;

(4) The location of the proposed activity;

(5) A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms, and a description of the type, composition and quantity of materials to be discharged or dumped and means of conveyance;

(6) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(7) If the proposed activity would occur in the territorial seas or ocean waters, a description of the activity's relationship to the baseline from which the territorial sea is measured;

(8) A list of other government authorizations obtained or requested, including required certifications relative to water quality, costal zone management, or marine sanctuaries;

(9) If appropriate, a statement that the activity is a categorical exclusion for purposes of the National Environmental Policy Act (see paragraph 7 of Appendix B to 33 CFR Part 230);

(10) A statement on cultural resources (see Appendix C);

(11) A statement on endangered species (see § 325.2(e));

(12) A statement(s) on evaluation factors (see § 325.3(b));

(13) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest, including environmental values;

(14) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the permit application;

(15) A statement that any person may request, in writing, within the comment period specified in the notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing;

(16) For non-Federal applications, a statement on the requirement for compliance with an approved Coastal Zone Management Program; and

(17) For section 103 (ocean dumping) activities:

(i) A statement as to whether the proposed disposal site has been designated for use by the Administrator, EPA, pursuant to section 102(c) of the Act;

(ii) If the proposed disposal site has not been designated by the Administrator, EPA, a description of the characteristics of the proposed disposal site and an explanation as to why no previously designated disposal site is feasible;

(iii) A brief description of known dredged material discharges at the proposed disposal site;

(iv) Existence and documented effects of other authorized dumpings that have been made in the dumping area (e.g., heavy metal background reading and organic carbon content); and

(v) An estimate of the length of time during which disposal would continue at the proposed site.

(b) *Evaluation factors.* A paragraph describing the various factors on which decisions are based during evaluation of a permit application shall be included in every public notice.

(1) Except as provided in paragraph (b)(3) of this section, the following will be included:

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

(2) If the activity would involve the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters, the public notice shall also indicate that the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act (40 CFR Part 230) or of the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate. See also 33 CFR Part 324.

(3) In cases involving construction of fixed structures or artifical islands on outer continental shelf lands which are under mineral lease from the Department of the Interior, the notice will contain the following statement: "The decision as to whether a permit will be issued will be based on an evaluation of the impact of the proposed

work on navigation and national security."

(c) *Distribution of public notices.* (1) Public notices will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed work and will be sent to the applicant, to appropriate city and county officials, to adjoining property owners, to appropriate State agencies, to appropriate Indian Tribes or tribal representatives to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, to appropriate River Basin Commissions, to appropriate State and Areawide Clearinghouses as prescribed by OMB Circular A–95, and to any other interested party. District engineers will purge mailing lists at least every two years to eliminate unnecessary paperwork and mailings. If in the judgment of the district engineer the proposal may result in substantial public interest, a brief description of the proposed project (without drawings) may be published for five consecutive days in the local newspaper, and the applicant may be required to reimburse the district engineer for the costs of publication. In such cases, the description shall include instructions on how to obtain a copy of the public notice and will give the final date for accepting public comments. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the Field Representative of the Secretary of the Interior, the Regional Director of the Fish and Wildlife Service, the Regional Director of the National Park Service, the Regional Director of the Heritage, Conservation, and Recreation Service, the Regional Administrator of the Environmental Protection Agency (EPA), the Regional Director of the National Marine Fisheres Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the State agency responsible for fish and wildlife resources, and the District Commander, U.S. Coast Guard.

(2) In addition to the general distribution of public notices cited above, notices will be sent to other addresses in appropriate cases as follows:

(i) If the activity would involve structures or dredging along the shores of the seas or Great Lakes, to the Coastal Engineering Research Center, Washington, D.C. 20016.

(ii) If the activity would involve construction of fixed structures or artifical islands on the outer continental shelf or in the territorial seas, to the Deputy Assistant Secretary of Defense (Installations and Housing), Washington, D.C. 20310; the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390, Attention, Code N512; and the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland, 20852.

(iii) If the activity involves the construction of structures to enhance fish propagation (e.g., fishing reefs) along the coasts of the United States, to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iv) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(v) If the activity would be in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, D.C. 20230 and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(3) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the application. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the district engineer may request its comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constitutent or himself, the district engineer will inform the member of Congress of the final decision.

(d) *Regional permit notices (RCS: DAEN–CWO–52).* For purposes of performing a nationwide analysis of the effectiveness of the regional permit program, Division offices will submit "Public Notices on Regional Permits" reports (RCS: DAEN–CWO–52) by COB on the 15th day, following the end of each quarter, to HQDA (DAEN–CWO–N) Washington, D.C. 20314. Said reports will be in the form of a letter listing the public notices published during the previous quarter to announce proposals or to finalize issuances of regional permits; copies of the public notices are to be made inclosures to the reports. Negative reports will be submitted if no regional permit actions have taken place in the division during the reporting period.

§ 325.4 Conditioning of permits.

District and division engineers are authorized to add special conditions to permits as may be necessary to protect the public interest in accordance with the following policies.

(a) *Primary and secondary effects and associated impacts.* Primary effects will occur directly as a result of the issuance of a permit, or subsequent operations of the activity (e.g., disposal of maintenance dredging material) in the immediate vicinity of the permitted work. They include effects on those aquatic and adjacent upland areas that are part of the overall project as identified in the permit application. Secondary effects include those activities on water or land that can be expected to occur as follow-up to the completion of the permitted activity and the effects associated with it. These include: increased shipping and/or vehicular traffic; needs for housing, schools and other related activities; and the resultant development of surrounding areas beyond those planned or identified in the original permit application. Associated impacts will occur or continue to occur regardless of the issuance of the permit (e.g., clearing of rights-of-way for power lines, use of an existing waterway to transport commercial goods, upland housing that will occur to respond to needs other than the permitted activity).

(b) *Speculative effects and impacts.* Generally, permits will be conditioned only to respond to effects and impacts of the permit which are at least probable rather than speculative. To illustrate, conditioning of permits to respond to associated impacts is generally inappropriate because those impacts would occur or continue to occur regardless of the issuance of the permit. Also, while permits may readily be conditioned to respond to primary effects, whether a permit may be conditioned to respond to a secondary effect will depend on whether it is at least probable, rather than speculative. Finally, that other Federal, State, or local enforcement mechanisms exist to preclude or minimize the probability of certain effects and impacts will be considered in determining whether those effects and impacts are at least probable. District and division engineers will also be guided by the existence of other Federal, State or local laws or programs that adequately and directly accomplish the same purpose intended by the condition. For example, while air quality is a factor to be considered in the public interest review, the

imposition of air quality emission standards as special conditions to a permit generally would be inappropriate since State and Federal enforcement programs to accomplish the same result already exist. Similarly, the imposition through a special condition of effluent limitations on the point source discharges resulting from a permitted activity and establishment of monitoring programs to ensure water quality parameters are met as a result of these related discharges generally would be inappropriate since these concerns are treated by EPA and the states.

(c) *Mitigation.* The Chief of Engineers supports plans to mitigate or avoid fish and wildlife losses in any action taken by the Corps of Engineers. Primary emphasis in the formulation of conditions should be directed toward avoiding or mitigating impacts on fish and wildlife values which are associated with the construction and subsequent operation of the permitted activity. For example, dredging may be prohibited during spawning seasons.

(d) *Land acquisition.* Certain cases will require the *dedication* of particular portions of land located within or in the immediate vicinity of the applicant's project boundaries to mitigate fish and wildlife losses, and this *dedication* of land may involve a set aside of certain lands already owned by the applicant, the acquisition of lands contiguous to the project site by the applicant to manage for fish and wildlife purposes, and even the transfer of land to others for management purposes. In formulating a position on such cases, district engineers should be guided, in addition to the policies on fish and wildlife mitigation, by the policy guidelines enumerated in paragraphs (a) and (b) of this section. Where, however, the land to be acquired is not associated with the impacts of the proposed work, district engineers generally should not become directly involved in negotiations with a permit applicant to achieve commitments on acquiring lands outside the applicant's project boundaries as a primary means of securing another Federal agency's concurrence to the issuance of a permit or of tilting the balance in favor of issuing a permit in the public interest. Although agreements involving the acquisition of such land may evolve, on a case-by-case basis, as a result of discussions involving the permit applications, these agreements generally should not be included as special conditions to the permit, but instead, should remain enforceable only through the parties to the agreement.

(e) *Safety of impoundment structures.* Unless an adequate inspection program is required by another Federal licensing agency or will be performed by another Federal agency, the district engineer will condition permits for non-minor impoundment structures to require that the permittee operate and maintain the structure properly to insure public safety. The district engineer may condition such permits to require periodic inspections and to indicate that failure to accomplish actions to assure the public safety will be considered cause to revoke the permit.

§ 325.5 Forms of authorizations.

(a) *General discussion.* (1) Department of the Army authorizations under this regulation will be in the form of individual permits or general permits. The basic format shall be ENG Form 1721, Department of the Army Permit (Appendix A).

(2) The general conditions included in ENG Form 1721 are normally applicable to all permits; however, some conditions may not apply to certain authorizations and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in accordance with § 325.4.

(b) *Individual permits.* (1) *Standard permits.* A standard individual permit is one which has been processed through the public interest review procedures, including public notice and receipt of comments, described throughout Part 325. The standard individual permit shall be issued using ENG Form 1721.

(2) *Letters of permission.* In those cases subject to Section 10 of the River and Harbor Act of 1899 in which, in the opinion of the district engineer, the proposed work would be minor, would not have significant impact on environmental values, and should encounter no opposition, the district engineer may omit the publishing of a public notice and authorize the work by a letter of permission. However, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and State, as required by the Fish and Wildlife Coordination Act. The letter of permission will not be used to authorize the discharge of dredged or fill material into waters of the United States nor the transportation of dredged material for purposes of dumping it in ocean waters. The letter of permission will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions form ENG Form 1721 will be attached and will be incorporated by reference into the letter of permission.

(c) *General permits.* (1) *Regional permits.* Regional permits are a type of general permit issued by a division or district engineer after compliance with the other procedures of this regulation. Regional permits may be issued for certain clearly described categories of structures or work, including discharges of dredged or fill material, requiring Department of the Army permits. After a regional permit has been issued, individual activities falling within those categories that are authorized by such regional permits do not have to be further authorized by the procedures of this regulation unless the District Engineer determines, on a case-by-case basis, that the public interest requires individual review. The district engineer shall include appropriate conditions as specified in Appendix A and may require reporting procedures. A regional permit may be revoked if it is determined that it is no longer in the public interest provided the procedures of § 325.7 are followed. Following revocation, applications for future activities in areas covered by the regional permit shall be processed as applications for individual permits. No regional permit shall be issued for a period of more than five years.

(2) *Nationwide permits.* Nationwide permits are a type of general permit and represent Department of the Army authorizations that have been issued by the regulation (33 CFR Part 330) for certain specified activities nationwide. If certain conditions are met, the specified activities can take place without the need for an individual or regional permit.

(d) *Section 9 permits.* Permits for structures under Section 9 of the River and Harbor Act of 1899 will be drafted during review procedures at Department of the Army level.

§ 325.6 Duration of authorizations.

(a) *General.* Department of the Army authorization may authorize both the work and the resulting use. Authorizations continue in effect until they automatically expire or are modified, suspended, or revoked.

(b) *Structures.* Authorizations for the existence of a structure or other activity of a permanent nature are usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the authorization will be of limited duration with a definite expiration date.

(c) *Works.* Authorizations for construction work or other activity will

specify time limits for completing the work or activity. The time limits may specify a date by which the work must be started, normally one year from the date of issuance, and will specify a date by which the work must be completed. The dates will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. An authorization for work or other activity will automatically expire if the permitee fails to request and receive an extension. Permits issued for the transport of dredged material for the purpose of dumping it in ocean waters will specify a completion date for the dumping not to exceed three years from the date of permit issuance.

(d) *Extensions of time.* Extensions of time may be granted by the district engineer for authorizations of limited duration, or for the time limitations imposed for starting or completing the work or activity. The permittee must request the extension and explain the basis of the request, which will be granted only if the district engineer determines that an extension would be in the general public interest. Requests for extensions will be processed in accordance with the regular procedures of § 325.2, including issuance of a public notice, except that such processing is not required where the district engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued and that the work is proceeding essentially in accordance with the approved plans and conditions.

(e) *Periodic maintenance.* If the authorized work includes periodic maintenance dredging, an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after his evaluation of the proposed method of dredging and disposal of the dredged material in accordance with the requirements of 33 CFR Parts 320 to 325. In such cases, the district engineer shall require notification of the maintenance dredging prior to actual performance to insure continued compliance with the requirements of the regulation and 33 CFR Parts 320–324. If the permitee desires to continue maintenance dredging beyond the expiration date, he must request a new permit. The permittee should be advised to apply for the new permit six months prior to the time he wishes to do the maintenance work.

§ 325.7 Modification, suspension or revocation of authorizations.

(a) *General.* The district engineer may reevaluate the circumstance and conditions of a permit either on his own motion, at the request of the permittee, or a third party, or as the result of periodic progress inspection, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the general public interest. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the activity authorized have changed since the permit was issued or extended, and the continuing adequacy of the permit conditions; any significant objections to the activity authorized by the permit which were not earlier considered; revisions to applicable statutory and/or regulatory authorities; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with § 325.2, and not as modifications under this paragraph.

(b) *Modification.* Upon request by the permittee or, as a result of reevaluation of the circumstances and conditions of a permit, the district engineer may determine that protection of the general public interest requires a modification of the terms or conditions of the permit. In such cases, the district engineer will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the district engineer will give the permittee written notice of the modification, which will then become effective on such date as the district engineer may establish, which in no event shall be less than ten days from its date of issuance. In the event a mutual agreement cannot be reached by the district engineer and the permittee, the district engineer will proceed in accordance with paragraph (c), of this section, if immediate suspension is warranted. In cases where immediate suspension is not warranted but the district engineer determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a meeting with the district engineer and/or a public hearing. The modification will become effective on the date set by the district engineer which shall be at least ten days after receipt of the notice unless a hearing is requested within that period. If the permittee fails or refuses to comply with the modification, the district engineer will proceed in accordance with 33 CFR Part 326.

(c) *Suspension.* The district engineer may suspend a permit after preparing a written determination and finding that immediate suspension would be in the general public interest. The district engineer will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop those activities previously authorized by the suspended permit. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit, and that he may within 10 days of receipt of notice of the suspension, request a meeting with the district engineer and/or a public hearing to present information in this matter. If a hearing is requested the procedures prescribed in 33 CFR Part 327 will be followed. After the completion of the hearing (or within a reasonable period of time after issuance of the notice to the permittee that the permit has been suspended if no hearing is requested), the district engineer will take action to reinstate the permit, modify the permit, or recommend revocation of the permit in accordance with paragraph (d), of this section.

(d) *Revocation.* Following completion of the suspension procedures in paragraph (c), of this section, if revocation of the permit is found to be in the public interest, the authority that made the decision on the original permit may revoke it. Prior to deciding whether or not to revoke the permit, the decision authority shall afford the permittee the opportunity to present new evidence not previously available provided, however, that where the decision authority determines that such evidence is significant, he shall provide all interested persons an opportunity to comment and respond with their own evidence. The permittee will be advised in writing of the final decision.

§ 325.8 Authority to issue or deny authorizations.

(a) *General.* Except as otherwise provided in this regulation, the Secretary of the Army, subject to such conditions as he or his authorized representative may from time to time impose, has authorized the Chief of Engineers and his authorized

representatives to issue or deny authorizations for construction or other work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899. He also has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for the discharge of dredged or fill material in waters of the United States pursuant to Section 404 of the Clean Water Act or for the transportation of dredged material for the purpose of dumping it into ocean waters pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. The authority to issue or deny permits pursuant to Section 9 of the River and Harbor Act of March 3, 1899 has not been delegated to the Chief of Engineers or his authorized representatives.

(b) *District Engineer's authority.* District engineers are authorized to issue or deny in accordance with this regulation permits pursuant to Section 10 of the River and Harbor Act of 1899; Section 404 of the Clean Water Act; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, in all cases not required to be referred to higher authority (see below). It is essential to the legality of a permit that it contain the name of the district engineer as the issuing officer. However, the permit need not be signed by the district engineer in person but may be signed for and in behalf of him by whomever he designates. In cases where permits are denied for reasons other than navigation or failure to obtain required local, State, or other Federal approvals or certifications, the Findings of Fact will be prepared in the general format required for reports under § 325.11. District engineers may deny permits without issuing a public notice or taking other processing steps where required local, state or other Federal permits for the proposed activity have been denied or where he determines the activity will clearly interfere with navigation. District engineers are also authorized to add, modify, or delete special conditions in permits in accordance with § 325.4, except for those conditions which may have been imposed by higher authority, and to modify, suspend and revoke permits according to the procedures of § 325.7(c). District engineers will refer the following applications to the division engineer for resolution.

(1) When a referral is required by a written agreement between the head of a Federal agency and the Secretary of the Army;

(2) When the recommended decision is contrary to the stated position of the Governor of the State in which the work would be performed;

(3) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(4) When the division engineer requests the application be forwarded for decision; and

(5) When the district engineer is precluded by law or procedures required by law from taking final action on the application (e.g., Section 404(c) of the Clean Water Act, Section 9 of the River and Harbor Act of 1899, territorial sea baseline changes).

(c) *Division Engineer's authority.* Division engineers will review, attempt to resolve outstanding matters, and evaluate all permit applications referred by district engineers. Division engineers may authorize the issuance or denial of permits pursuant to Section 10 of the River and Harbor Act of 1899; Section 404 of the Clean Water Act; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended; and the inclusion of conditions in accordance with § 325.4 in all cases not required to be referred to the Chief Engineers. Division Engineers will refer the following applications to the Chief of Engineers for resolution:

(1) When a referral is required by a written agreement between the head of a Federal agency and the Secretary of the Army;

(2) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(3) When the Chief of Engineers requests the application be forwarded for decision; and

(4) When the division engineer is precluded by law or procedures required by law from taking final action on the application.

When the division engineer takes his final position on an application subject to referral paragraph (c)(1) of this section, he shall notify the Chief of Engineers and provide appropriate information at the same time he notifies the objecting Federal agency.

§ 325.9 Supervision and enforcement.

(a) *Inspection and monitoring.* District engineers will assure that authorized activities are conducted and executed in conformance with approved plans and other conditions of the permits. Appropriate inspections should be made on timely occasions during performance of the activity and appropriate notices and instructions given permittees to insure that they do not depart from the approved plans. Reevaluation of a permit to assure compliance with its purposes and conditions will be carried out as provided in § 325.7. If there are approved material departures from the authorized plans, the district engineer will require the permittee to furnish corrected plans showing the activity as actually performed.

(b) *Non-compliance.* Where the district engineer determines that there has been non-compliance with the terms or conditions of a permit, he should first contact the permittee and attempt to resolve the problem. If a mutually agreeable resolution cannot be reached, a written demand for compliance will be made. If the permittee has not agreed to comply within 5 days of receipt of the demand, the district engineer will issue an immediately effective notice of suspension in accordance with § 325.7(c) and consider initiation of appropriate legal action (33 CFR 326.4).

(c) *Surveillance.* For purposes of inspection of permitted activities and for surveillance of the waters of the United States for enforcement of the permit authorities the district engineer will use all means at his disposal. All Corps of Engineers employees will be instructed to observe and report all activities in waters of the United States which would require permits. The assistance of members of the public and personnel of other interested Federal, State and local agencies to observe and report such activities will be encouraged. To facilitate this surveillance, the district engineer will, in appropriate cases, require a copy of ENG Form 4336 to be posted conspicuously at the site of authorized activities and will make available to all interested persons information on the scope of authorized activities and the conditions prescribed in the authorizations. Furthermore, significant actions taken under § 325.7 will be brought to the attention of those Federal, State and local agencies and other persons who express particular interest in the affected activity. Surveillance in ocean waters will be accomplished primarily by the Coast Guard pursuant to Section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(d) *Inspection expenses.* The expenses incurred in connection with the inspection of permitted activity in waters of the United States normally will be paid by the Federal Government in accordance with the provisions of Section 6 of the River and Harbor Act of 3 March 1905 (33 U.S.C. 417) unless daily supervision or other unusual expenses are involved. In such unusual cases, and after approval by the division engineer, the permittee will be required to bear

the expense of inspections in accordance with the conditions of his permit; however, the permittee will not be required or permitted to pay the United Stats inspector either directly or through the district engineer. The inspector will be paid on regular payrolls or service vouchers. The district engineer will collect the cost from the permittee in accordance with the following:

(1) At the end of each month the amount chargeable for the cost of inspection pertaining to the permit will be collected from the permittee and will be taken up on the statement of accountability and deposited in a designated depository to the credit of the treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(2) If the district engineer considers such a procedure necessary to insure the United States against loss through possible failure of the permittee to supply the necessary funds in accordance with paragraph (d)(1), of this section, he may require the permittee to keep on deposit with the district engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit preferably being in the form of a certified check, payable to the order of Treasurer of the United States. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection.

(3) On completion of work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, and outstanding deposits returned to the permittee. If the account is protested by the permittee, it will be referred to the division engineer for approval before it is closed and before any deposits are returned to the permittee.

(e) *Bonds.* If the permitted activity includes restoration of the waters to their original condition, or if the issuing official has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

§ 325.10 Publicity.

The district engineer will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in waters of the United States or ocean waters. Whenever the district engineer becomes aware of plans being developed by either private or public entities which might require permits for implementation, he should advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Whenever the district engineer is aware of changes in Corps of Engineers regulatory jurisdiction, he will issue appropriate public notices.

§ 325.11 Reports.

The report of a district engineer on an application for a permit requiring action by the division engineer or by the Chief of Engineers will be in a letter form with the application and all pertinent comments, records, photographs, maps, and studies and environmental documentation as inclosures. The inclosures for all cases referred to the Chief of Engineers will be in duplicate. If an EIS has been prepared, the report shall not be forwarded until 30-days following filing of the final EIS and shall address any comments received on the final EIS. The following items will be included or discussed in the report, if applicable;

(a) Name of applicant and date of application.

(b) Location, character and purposes of proposed activity, including a description of any wetlands involved.

(c) Applicable statutory authorities and administrative determinations conferring Corps of Engineers regulatory jurisdiction.

(d) Other Federal, State, and local authorizations obtained or required and pending.

(e) Date of public notice and public hearings, if held, and summary of objections offered with comments of the district engineer thereon. The comments should explain the objections and not merely refer to enclosed letters.

(f) Views of State and local authorities.

(g) Views of district engineer concerning problable effect of the proposed work on:

(1) Conservation.
(2) Economics.
(3) Aesthetics.
(4) General environmental concerns.
(5) Wetlands.
(6) Cultural Values.
(7) Fish and Wildlife Values.
(8) Flood hazards.
(9) Flood Plain values.
(10) Land use.
(11) Navigation.
(12) Shoreline erosion and control.
(13) Recreation.
(14) Water supply and conservation.
(15) Water quality.
(16) Energy needs.
(17) Safety.
(18) Food production.
(19) Needs and welfare of the public.

(h) Other pertinent remarks, such as:

(1) Extent of public and private need.
(2) Appropriate alternatives.
(3) Extent and permanence of beneficial and/or detrimental effects.

(i) A copy of the environmental assessment or the Environmental Impact Statement. If an EIS is prepared, a summary of comments received on the final EIS together with the district engineer's response to those comments.

(j) A discussion of conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or the dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), as applicable.

(k) Conclusions.

(l) Recommendations including any proposed special conditions.

Appendix A—Permit Form

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Appendix B—[Reserved]

Appendix C—Procedures for the Protection of Historic and Cultural Properties

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Appendix D—Memorandum of Agreement Between the Administrator of the Environmental Protection Agency and the Secretary of the Army

1. *Purposes of the Agreement.* Section 404(q) of the Clean Water Act recognizes that the programs of various Federal agencies either impact or are impacted by the Section 404 permit program and the activities that program regulates. Section 404(q) Memoranda of Agreement (MOAs), therefore, should be designed to ensure timely and constructive involvement, including consideration of the views, of Federal agencies in the Section 404 regulatory permit application process so as (1) to help protect public interests involved; (2) to minimize, to the maximum extent practicable, duplication, needless paperwork and delays in the processing of permit applications; and (3) to assure that, to the maximum extent practicable, a decision is made on the application within 90 days of issuance of the public notice. The purpose of this agreement between the Secretary of the Army and the Administrator of the Environmental Protection Agency, under Section 404(q), is to achieve these objectives of Section 404 of the Clean Water Act.

In particular, the parties agree that:

a. In most instances, decisions on permit applications can be made most timely if made at the lowest level of authority; therefore, the great majority of decisions should be made at this level. Accordingly, the parties will make every effort to resolve

differences at the lowest possible organizational level and will encourage personal contacts for such resolution.

b. Consultations with applicants for major projects prior to formal permit application may help to resolve problems at the Army Corps of Engineers (Corps) District level, and such consultations are encouraged.

c. The opportunity for review by higher authority of a small number of permit applications having unresolved Federal agency objections will help achieve the objectives of this agreement only if (1) issues that may be raised are directly related to the statutory mandates and concerns of the Environmental Protection Agency (EPA), and (2) review is carried out in accordance with clearly specified procedures under appropriate time constraints.

2. *Scope and Interpretation of Agreement.* This agreement applies to the processing of Department of the Army (DA) permit applications under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research and Sanctuaries Act. It does not pertain to permit applications processed under Section 9 of the Rivers and Harbors Act of 1899, nor to Civil Works projects of the Corps of Engineers. As the contest requires, the term "EPA" may mean the appropriate official(s) of EPA. The terms "he" and "his" may also mean "she" and "her" respectively.

3. *Classification of Permits for MOA Purposes.* The permit applications encompassed by this MOA are divided into three classes, as follows:

a. *Class I:* Permit applications where an Environmental Impact Statement (EIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) and (1) the Corps is the lead agency for conducting the review required by NEPA, or (2) the Corps is not the lead agency but the activities subject to Corps permit authority (e.g., discharge of dredge and fill material or structures or other work in the waters of the United States) are of concern to EPA.

b. *Class II:* Permit applications for projects that:

(1) Relate to emerging policy issues, alleged violations or erroneous application of existing policy (set forth, for example, in law, regulation or executive order), or involve some other precedent-setting potential impacting on or relating to the permit program;

(2) Have substantial individual impacts; or

(3) Contribute to a cumulative impact of demonstrably substantial proportions.

In determining whether an impact is "substantial" within the meanings of subparagraphs (2) and (3) above, and thus determining whether a case is within Class II rather than Class III, the parties should consider, anomg other factors, the actual physical extent and quality of the area to be affected, the degree of public interest in the proposal, and the positions of other Federal and state resources agencies.

c. *Class III:* All permit applications not included in Classes I and II.

4. *General Rules for Processing and Review of Permit Applications.* a. All reviews by higher authority will be *sequential.* If the District Engineer makes a determination on the application that is contrary to the stated position of the EPA Regional Administrator, the EPA may have the application reviewed as follows:

(1) *Class I:* The comparable officials of EPA may have the application reviewed by the Division Engineer, by the Chief of Engineers, by the Assistant Secretary of the Army for Civil Works (ASA(CW)), and, finally, by the Secretary of the Army.

(2) *Class II:* The comparable officials of EPA may have the application reviewed by the Division Engineer, by the Chief of Engineers, and, finally, by the ASA(CW).

(3) *Class III:* The EPA Regional Administrator may have the application reviewed by the Division Engineer.

b. For all three classes of applications, EPA must document the issues it wishes to raise on review and shall update such documentation for each subsequent level of review. Such documentation shall include a description of:

(1) the issues;

(2) field level coordination;

(3) agreements or counter-proposals that have been offered;

(4) quantitative and qualitative evaluations of expected cumulative or substantial impacts that could occur; and

(5) proposed resolutions of policy or other issues raised.

c. EPA is entitled to take the position at each level of the review process that an application is within Class II, rather than Class III. Even if the Corps should determine that a case is within Class III rather than Class II, a determination that can be made at any level, EPA would still have the right to have the application elevated to the next level of review until the ASA(CW) makes a final determination of that issue in deciding whether to review the application under this agreement.

d. At each level of review above the District Engineer, unless otherwise constrained by law or regulation, and subject to the rights of EPA to seek further review as provided in this agreement, the reviewing officer will have the authority to (1) decide that the permit should be issued or denied or (2) decide only the issue that has been raised and send the application back to a level where a decision on permit issuance can be made. However, in those istances where either the Chief of Engineers of the ASA(CW) determines that a case is within Class III rather than Class II, he shall indicate the rationale for that determination, but he shall not be obligated to (yet, in his descretion, may) express his opinion on all the issues raised by EPA.

e. At each level of review, EPA will, within the time limits speciefied in paragraph 5 below, have ample opportunity for consultation. More time is allotted for field coordination in recognition of the geographic separation of many coordinating offices and the need for their reliance on postal services; correspondence at the Washington level shall be hand delivered between coordinating offices. Such consultation may be initiated by EPA or the Army and shall be fully documented in accordance with subparagraph b above. The consultations should normally involve meetings, exchanges of written views, or both, as the parties may mutually agree is appropriate. Staff meetings are encouraged for the consultations, but at least one complete exchange of written views on issues shall document agency positions. Except in those instances where negotiations involve final decision-making, the officials named herein may be represented by staff members, provided they have been delegated sufficient authority to negotiate the issues that are the subject of such meetings.

f. EPA has the opportunity to seek review above the district level only once on issues then germane and ripe for review. For example, if the issue raised by EPA concerns an emerging policy and subsequently the MOA review process on that issue is completed and the application is sent back to the District Engineer for decision-making, it would not be permissible for EPA to contend, upon a subsequent decision to issue the permit, that demonstrably substantial impacts had been ignored. However, in all instances in which, after completion of higher level review, the case is sent back to the District Engineer for further decision-making on the application, the District Engineer shall communicate the substance of his proposed decision to the Regional Administrator and provide an opportunity to review it. Should EPA subsequently contend that the District Engineer has misinterpreted the higher level review decision or has faied to apply it appropriately, the Army will decide whether the appeal will be processed sequentially, as specified in paragraphs 4a and 5, or brought directly to the higher Army Authority which made the review decision.

5. *Specific Processing Times and Procedures.* a. *Notices to EPA.* The Corps will send EPA regions public notices for those categories of activities which they have stated an interest in reviewing. Request for such notices should be made in writing to the appropriate District Engineer. In the case of EPA regions which are being provided with public notices on the basis of arrangements currently in effect, those arrangements will continue unless EPA requests a change.

b. *Timely EPA Reports Required.* EPA will send reports with recommendations on the application in time to reach the Corps within the comment period specified in the public notice (normally 30 calendar days). EPA may request an extension of the comment period in writing before the expiration date. The request should be supported with adequate justification and should specify the additional review time needed. The Corps will normally grant the extension but not to allow a total comment period of more than 75 calendar days from the date of the public notice and will not thereafter reopen the comment period, provided that adequate data and information has been provided in a timely manner by the applicant.The parties further understand that normally, if EPA makes no response during the comment period, as extended, it will not report on the application. The parties recognize, however, that other applicable law, including Section 401 of the Clean Water Act, may require EPA to have opportunity to comment further on the application in carrying out its responsibilities under such law, and nothing

herein shall be construed to limit EPA's responsibilities or discretion under such laws.

c. *Timely Corps decisions.* The Corps will make its decision on all applications not later than 90 calendar days after issuance of the public notice unless:

(1) precluded as a matter of law or procedures required by law, regulation, or other memoranda of agreement (see 5e below);

(2) the application must be referred to higher authority (see 5f below);

(3) the comment period is extended to more than 45 days from the date of the public notice;

(4) a timely rebuttal or resolution of objections is not received from the applicant;

(5) the processing is suspended at the request of the applicant; or

(6) information needed by the District Engineer for a decision on the application is unavailable and cannot be obtained within the 90-day period.

In such cases, the processing time limitation will be extended by the number of additional days required to satisfy or eliminate the exceptions identified in items (1) through (6) above. For example, under item (3) above, if the comment period is extended to 75 days (30 days more than the 45 days mentioned above), the Corps will, absent other exceptions, decide on the application within 120 days from the date of the public notice. For items (4), (5) and (6) above, it is understood that the District Engineer will immediately forward to the applicant any EPA request for additional information or report recommending denial or modification of the application, and shall, when he believes it appropriate, convene joint meetings with the applicant and EPA in an attempt to resolve the concerns.

d. *Applicant Initiatives.* It is further understood that where EPA objections are involved, the applicant may:

(1) resolve the objections by agreeing to recommend modifications;

(2) request continued processing despite objections, either with or without providing counter arguments;

(3) request suspension of processing to provide time either for negotiations with EPA or for preparation of counter arguments; or

(4) withdraw the application.

e. *Expediting Compliance with Applicable Laws.* Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the Preservation of Historical and Archaeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, the Marine Protection, Research and Sanctuaries Act, and the Fish and Wildlife Coordination Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, special studies and testing, agency jurisdictional determinations, etc., which may prevent the Corps from being able to make its decision on certain applications within 90 days. EPA and the Corps agree to do everything possible to insure that decisions on such applications are made as quickly as possible within the framework of the applicable laws, regulations, this agreement, and other memoranda of agreement.

f. *Review Time Limitations and Officials Involved.* (1) *The District Engineer*—If the District Engineer decides a permit should be issued and there are unresolved objections by EPA he will furnish his determination (and other relevant documents, including those requested in advance by the Regional Administrator, to the extent available) to the EPA Regional Administratior, who then has 20 working days from the date of the District Engineer's letter to request in writing a review by the Division Engineer. The request from the Regional Administrator to the Division Engineer shall include the documentation called for by paragraph 4b above. The District Engineer will forward the application report (case) to the Division Engineer within 20 working days from the date of the Regional Administrator's request for review.

(2) *The Division Engineer*—The Division Engineer will review the record and make his own public interest determination on the application within 30 working days of the date of the District Engineer's report. During this period, he will consult with the EPA Regional Administrator in an attempt to develop a mutually acceptable resolution of the case, he will immediately notify the Regional Administrator in writing of his determination on the application, including, where appropriate, his position on whether the application is within Class II or Class III. For Class I and II applications, EPA has 20 working days from the date of such notifiction to request in writing a review by the Chief of Engineers. The request for review shall be made to the Chief of Engineers by the Assistant Administrator for Water and Waste Management (for cases involving issues under Section 404 of the Clean Water Act or Section 103 of the Marine Protection, Research and Sanctuaries Act) or by the Director, Office of Environmental review (for cases involving EIS-related issues, other than Section 404 discharge of dredge and fill materials, or exclusively involving Section 10 of the Rivers and Harbors Act of 1899). The request shall include the updated documentation called for by paragraph 4b above. The Division Engineer will forward the case within 15 working days from the date of the EPA official's request.

(3) *The Chief of Engineers*—The Chief of Engineers will immediately review the record and make his own public interest determination on the application (or decide isues or make Class determinations as provided for in paragraph 4d) within 30 working days from the date of the Division Engineer's report. During this period, the Chief of Engineers will consult with the Assistant Administrator for Water and Waste Management or the Director, Office of Environmental Review, as the case may be, in an attempt to develop a mutually acceptable resolution of the case. If the Chief of Engineers concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the appropriate EPA offical in writing of his determination on the application including, where appropriate, his determination on its classification. EPA has 15 working days from the date of such notification to request a review of the case by the ASA(CW). The request for review must be made to the ASA(CW) by the Deputy Administrator of EPA and will include the updated documentation called for by paragraph 4b above. The Chief of Engineers will forward the case within 15 working days from the date of the Deputy Administrator's request to the ASA(CW).

(4) *The Assistant Secretary of the Army for Civil Works*—The ASA(CW) will review the record and make his own public interest determination on the application, or decide only the specific issues raised within 30 working days from the date of the Chief of Engineers report, unlesss he decides that a case is within Class III as provided in paragraph 4d. During this period, the ASA(CW) will consult with the Deputy Administrator in an attempt to develop a mutually acceptable resolution of the case. If the ASA(CW) concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Deputy Administrator in writing of his determination on the application. For Class I applications, EPA has 15 working days from the date of such notification to request a review of the case by the Secretary of the Army. The request for review must be made to the Secretary of the Army by the Administrator of the Environmental Protection Agency and will include the updated documentation called for by paragraph 4b above. The ASA(CW) will forward the case to the Secretary of the Army within 15 working days from the date of the Environmental Protection Agency Administrator's request.

(5) The Secretary of the Army, in consultation with the Administrator of EPA, will make a final decision on the application within 45 working days from the date of the ASA(CW)'s report.

(6) Notifications of Corps positions and requests for higher authority reviews will be valid only if signed by the indicted official or an official authorized to act in his absence, except that the Director of Civil Works may routinely act for the Chief of Engineers.

(7) At any step during the procedures prescribed above, the parties may mutually conclude that concerns of EPA have been either fully addressed or that an impasse has been reached but referral of the application to the next higher echelon is unwarranted before a final decision can be made. The absence of a response from EPA during the period allotted EPA to request a referral will indicate that EPA does not desire further referral, but Army officials will contact EPA at the end of such period to verify that a review request was, in fact, not made.

(8) Some permit cases may involve a record of such length and/or issues of such complexity that Army and/or EPA review decisions could not reasonably be anticipated within the time constraints imposed above. This is especially true if additional studies or research, possibly requiring public comment, are essential to the decision at hand. In this event, both agencies will consult and impose new deadlines for review consistent with the objectives of this MOA.

6. *General Permits.* The Corps has found general permits, issued on both regional and

nationwide bases, to be the most effective way, where appropriate, for reducing duplication, paperwork, and delays. EPA and the Corps pledge to cooperate fully to assure the successful continuation of this vital program. It is the intent of the parties to assure enforcement of their terms and conditions. EPA will assist the Corps in its efforts to remain aware of potential cumulative impacts that may occur as a result of construction activities covered by general permits.

7. *Joint Processing of Permit Applications.* To further expedite Federal decisions on activities requiring Department of the Army permits, District Engineers and Regional Administrators, responsible for administering other Federal permit programs, are encouraged to enter into arrangements to process and evaluate jointly Army and EPA permit applications related to the same activity. This may include the issuance of joint public notices, the conduct of joint public hearings, and the joint review and analysis of information and comments developed in response to the public notice, public hearing, environmental assessment and the EIS (if any), and other laws with regard to which EPA has specific responsibilities.

8. *Effective Date and Duration.* This agreement is effective immediately upon its signing by both the Secretary of the Army and the Administrator of the Environmental Protection Agency and applies to all permit applications in process at that time. After 30 months, the parties will review and revise the agreement as is appropriate. If, however, such revisions are not agreed upon within six months after the 30-month period, then either party may terminate this agreement at the end of such six-month period, provided that all pending cases for which review has been requested under this MOA shall continue to be bound by this MOA, unless the parties mutually agree otherwise. It is further recognized that revisions may become necessary at any time if conflicts result from new law, executive order, or deficiencies not now apparent in this agreement. In such event, the parties will consult to attempt to resolve the issues and amend this MOA accordingly.

Dated: March 17, 1980.

Douglas M. Costle,

Administrator of the Environmental Protection Agency.

Dated: March 24, 1980.

Clifford L. Alexander,

Secretary of the Army.

Appendix E—Memorandum of Agreement Between the Secretary of Agriculture and the Secretary of the Army on Permit Processing

1. *Purpose and Scope.* a. This agreement between the Secretary of Agriculture and the Secretary of the Army is made under Section 404(q) of the Clean Water Act which reads as follows:

(q) Not later that the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice for such application is published under subsection (a) of this section.

b. Since the reduction of duplication, paperwork, and delays is a goal in all Department of the Army (DA) regulatory programs, this agreement is also applicable to other DA regulatory authorities, particularly Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

c. This agreement does not apply to activities specifically excluded from the Clean Water Act nor to civil works projects of the Corps of Engineers.

2. *Definitions.* a. "Applicant" means the USDA, state or local agency, or private party responsible for initiation of a USDA action and making application for a DA permit.

b. "Corps" means the Corps of Engineers or any official of the Corps of Engineers acting within his regulatory authority on behalf of the Secretary of the Army.

c. "EIS" means an environmental impact statement as required by the National Environmental Policy Act.

d. "Environmental assessment" means a written document identifying the expected environmental impacts of a proposed Federal action and supporting a determination whether or not the action will have a significant effect on the quality of the human environment.

e. "Environmental documentation" means any document prepared by either USDA or the Corps to demonstrate compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and the Council on Environmental Quality's NEPA implementing regulations. Such documents include any of the following: an "EIS," a "finding of no significant impact," or an "environmental assessment."

f. The term "he" and its derivatives used in this agreement is generic and should be considered as applying to both male and female.

g. "Negative declaration" means a written document supporting a determination that a proposed USDA action will not have a significant impact upon the quality of the human environment.

h. "USDA" means the Department of Agriculture or any official of any agency within the Department of Agriculture acting within his authority (1) in the review of a DA permit, (2) in application for a DA permit, or (3) acting as a recipient of a proposal which will require financial or other assistance from USDA and the exercise of DA regulatory authority.

i. "USDA action" means all actions of any kind authorized, funded, cost shared, or carried out by USDA, in whole or in part, examples of which include, but are not limited to:

(1) the granting of licenses, contracts, leases, easements, rights-of-way, permits, grants-in-aid, loans or loan guarantees, or

(2) actions directly or indirectly causing modifications to the land, water, or air.

3. *USDA/DA Coordination.* a. The procedures set forth in this Memorandum of Agreement will be utilized to strengthen the early coordination between USDA and the Corps prior to and during development of projects and the environmental documentation. As soon as practicable within the planning process of a USDA action involving the need for a DA permit, the USDA or the applicant will establish and maintain communication with the Corps for the purposes of reducing duplications and delays. The intent is that the data developed and the evaluation of impacts upon the human environment for all reasonable alternatives will satisfy the requirements of both USDA and the Corps, allow USDA and the Corps to jointly resolve public interest issues within the scope of each agency's responsibilities, and minimize further review of such issues during the permit process.

b. USDA may designate a non-USDA entity to act on its behalf for purposes of working level interstaff communication; however, USDA will retain responsibility to insure that such working level communications satisfies the statutory responsibilities to which USDA is subject.

c. Additional agreements between USDA agencies and the Corps may be developed within the framework of this MOA as mutually agreeable to the Corps and USDA agencies to establish specific procedures for specific programs under USDA authority.

d. The Corps will solicit USDA technical assistance and consult with USDA on elements of the permit program relevant to USDA areas of experitse. In particular, the Corps will solicit the technical advice of the appropriate USDA action agencies for assistance in interpreting the technical aspects of the terms used in Section 404(f) of the Clean Water Act.

4. *Lead Agency for Environmental Processes.* a. When a USDA project requires processing by both the Corps and USDA, USDA will ordinarily be the lead agency for the environmental documentation, and the procedures set forth in paragraphs 4.b and 4.c shall apply.

b. For USDA actions requiring a DA permit, the USDA will be responsible for environmental documentation in accordance with the applicable USDA guidelines and paragraph 3 above. Such documentation will demonstrate, where applicable, consideration of and compliance with the substantive requirements of Federal environmental statutes and executive orders including but not limited to:

National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
Executive Order 11988 (Flood Plain Management)
Executive Order 11990 (Protection of Wetlands)
Fish and Wildlife Coordination Act (165 U.S.C. 661–666c)
Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
National Historic Preservation Act (16 U.S.C. 470 et seq.)
Archeological and Historic Preservation Act of 1974 (PL 93–291)

Wild and Scenic River Act (16 U.S.C. 1271–1287)
Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451–1464)

c. As the lead agency, the USDA will be responsible for ensuring that project considerations and the assessments of environmental effects are coordinated with the Corps during project development.

(1) The Corps will be consulted during the evaluation as to whether the proposed USDA action requires the preparation of an EIS.

(2) When the USDA determines that a project requires either an EIS or negative delcaration, the Corps will function as a cooperating agency and will assist the USDA to insure that the environmental documentation adequately covers the portion of, the work requiring a DA permit. the draft environmental documentation will be provided to the Corps for review and comment.

(3) the USDA will provide the Corps a copy of the final environmental documentation at the same time the document is submitted for final USDA approval.

(4) When the consultation between the USDA and Corps on the preparation of the environmental documentation identifies areas of disagreement, the USDA and the Corps will seek to resolve the disagreement prior to USDA approval of the environmental documentation. It is understood that USDA and the Corps may occasionally reach different conclusions regarding the scope of necessary environmental documentation. In such instances, the Corps may find it necessary to prepare additional environmental decumentation for its use.

(5) As provided by CEQ guidelines and USDA procedures, USDA will also attempt to resolve environmental issues raised by other agencies in their comments on the draft EIS, prior to approval of the final EIS.

d. Notwithstanding the provisions of subsection 4.c., USDA and the Corps recognizes that there are certain categories of USDA projects, such as electric power generation proposals, which are so complex and require such a long lead time that, while there may be sufficient information to meet NEPA EIS requirements at an early stage, there is insufficient detailed data available for the Corps to immediately approve and issue a Section 10 or 404 permit. In such instances, the EIS shall not be delayed until detailed structure placement and design is available. The Corps shall, based on experience in processing applications for similar proposals, review the EIS and make a conceptual determination whether there are specific concerns which must be mitigated or which would preclude issuance of a Corps permit regardless of the nature, placement, or design of structures at a proposed site.

5. *Public Hearings.* USDA and the Corps will seek ways to avoid duplicate public hearings. Whenever possible within controlling regulations, joint public hearings will be held.

6. *DA Permits.* a. In order to facilitate early involvement by the Corps in the development of USDA actions which may require a DA permit, the Corps agrees, when requested by USDA or the applicant, to begin its public interest review in advance of receipt of an application, possibly including the issuance of a public notice either by the Corps or jointly with USDA, based on preliminary information available at the draft EIS or draft negative declaration stage. The USDA or the applicant in selecting a plan requiring an application for a DA permit, will consider all reasonable alternatives based on its own public involvement procedures, as well as comments received by and from the Corps as a result of its public interest review.

b. At the appropriate time in preparing the final environmental documentation, USDA will make or cause to be made application for the DA permit. Normally, this will be done as soon as a preferred action is identified and sufficient information can be developed for the Corps to process the application. If USDA provides the location and a general description of the proposed USDA action, with only that level of detail (e.g., approximate quantities) necessary for regulatory review, the Corps agrees to initiate permit processing. Applications shall cover entire projects where the plan and/or EIS cover a package proposal.

c. Unless precluded as a matter of law or procedures required by law, the Corps will issue the public notice not later that fifteen days after receipt of all information required to complete the application for the preferred action.

d. Substantive comments received in response to the permit application public notice shall be furnished to USDA. USDA or the applicant will have the opportunity to provide the Corps comments and/or rebuttal for the case record.

e. The Corps will normally rely on and incorporate the environmental processes and documentation accomplished in accordance with paragraph 4 in its public interest review. the Corps decision document on the permit application is distinct from the environmental documentation.

f. The Corps will make every reasonable effort to minimize the use of special conditions in permits issued for USDA actions and will consult with USDA or the applicant in their preparation. Commitments identified in environmental documents and enforceable by USDA upon an applicant will not normally be repeated in the DA permit except insofar as Corps' regulatory criteria require them. Likewise, the Corps will normally not include any special programs that accomplish the same purpose.

g. To the mazimum extent practicable, the Corps will make a decision to grant or deny a permit not later than ninety days after the public notice is issued.

h. The duration of the DA permit will be commensurate with the expected completion date of the USDA action. The Corps will consult with the USDA or the applicant in establishing completion dates for work covered by the permit.

7. *USDA Review of DA Permits. (Applicable where USDA desires to review and comment on DA permit applications submitted by other agencies and individuals.)*

a. The Corps will send USDA public notices for those categories of activities which USDA has an interest in reviewing. Requests for such notices should be made in writing to the Office of the Chief of Engineers, ATTN: DAEN–CWO–N.

b. USDA will send any comments on the application in time to reach the Corps within the comment period specified in the public notice. USDA may request an extension of the comment period in writing before the expiration date. The request should be supported with adequate justification and should specify the additional review time needed. The Corps will normally grant the extension. In no case will the Corps extend the comment period to more than a total of 75 days from the date of the public notice unless otherwise required by law. If no comments are received within the comment period, the Corps will assume USDA has no comment on the application. USDA need not send letters of "no objection" or "no intent to comment" to the Corps.

8. *Uniform Administration of Corps Regulatory Functions.* The Corps recognizes its responsibility to provide consistent administration of its permit program throughout the country.

9. *General Permits.* The Corps has found general permits issued on both a regional and nationwide basis, to be the most effective way, where appropriate, for reducing duplications, paperwork, and delays. The USDA and the Corps pledge to do everything possible to insure the successful continuation of this vital program. USDA will assist the Corps in remaining aware of potential cumulative impacts that may occur as a result of construction activities covered by general permits.

10. *Effective Dates and Modification.* This agreement shall become effective on the last signature date below, and remain in effect for three years at which time it shall be subject to renegotiation or extension on mutual agreement. If either party finds within this period that the agreement needs modification, the other party shall be notified in writing of the specific changes desired, with proposed modification language, and the reason(s) therefor. The proposed change(s) shall become effective within 60 days, unless the other party indicates in writing a desire to discuss the proposed change.

Date: March 14, 1980.

Jim Williams,
Secretary of Agriculture.

Date: March 24, 1980.

Clifford L. Alexander,
Secretary of the Army.

Appendix F—Memorandum of Agreement Between the Secretary of Commerce and the Secretary of the Army

1. *Purpose of the Agreement.* Section 404(q) of the Clean Water Act recognizes that the programs of various Federal agencies either impact or are impacted by the Section 404 permit program and the activities that program regulates. Section 404(q) Memoranda of Agreement (MOAs), therefore, should be designed to ensure timely and constructive involvement, including consideration of the views of Federal agencies in the Section 404 regulatory permit application process so as: (1) to help protect the public interests involved; (2) to minimize, to the maximum extent practicable, duplication, needless paperwork and delays in the processing of permit applications; and (3) to assure that, to

the maximum extent practicable, a decision is made on the application within 90 days of issuance of the public notice. The purpose of this agreement between the Secretary of the Army and the Secretary of Commerce, under Section 404(q), is to achieve these objectives of Section 404 of the Clean Water Act.

In particular, the parties agree that:

a. In most instances, decisions on permit applications can be made most timely if made at the lowest level of authority; therefore, the great majority of decisions should be made at this level. Accordingly, the parties will make every effort to resolve differences at the lowest possible organizational level and will encourage personal contacts for such resolution.

b. Consultations with applicants for major projects prior to formal permit application may help to resolve problems at the Army Corps of Engineers (Corps) District level, and such consultations are encouraged.

c. The opportunity for review by higher authority of a small number of permit applications having unresolved Federal agency objections will help achieve the objectives of the agreement only if (1) issues that may be raised are directly related to the statutory mandates and concerns of the Department of Commerce (DOC), and (2) review is carried out in accordance with clearly specified procedures under appropriate time constraints.

d. The National Oceanic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS) have, at their respective levels of coordination indicated hereafter, the authority and responsiblility for reporting DOC findings and recommendations on permit applications that are of interest to other bureaus or offices within the Department.

2. *Scope and Interpretation of Agreement.* This agreement applies to the processing of Department of the Army (DA) permit applications under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research and Sanctuaries Act. It does not pertain to permit applications processed under Section 9 of the Rivers and Harbors Act of 1899, nor to Civil Works projects of the Corps of Engineers. As the context requires, the term "DOC" may mean the appropriate officials(s) of any bureau or office within the Department. The terms "he" and "his" may also mean "she" and "her", respectively.

3. *Classification of Permits for MOA Purposes.* The permit applications encompassed by this MOA are divided into three classes, as follows:

a. *Class I:* Permit applications where an Environmental Impact Statement (EIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) and (1) the Corps is the lead agency for conducting the review required by NEPA, or (2) the Corps is not the lead agency but the activities subject to Corps permit authority (e.g., discharge of dredge and fill material or structures or other work in the waters of the United States) are of concern to DOC.

b. *Class II:* Permit applications for projects that:

(1) Relate to emerging policy issues, alleged violations or erroneous application of existing policy (set forth, for example, in law, regulation or executive order), or involve some other precedent-setting potential impacting on or relating to the permit program;

(2) Have substantial individual impacts; or

(3) Contribute to a cumulative impact of demonstrably substantial proportions.

In determining whether an impact is "substantial" within the meanings of subparagraphs (2) and (3) above, and thus determining whether a case is within Class II rather than Class III, the parties should consider, among other factors, the actual physical extent and quality of the area to be affected, the degree of public interest in the proposal, and the positions of other Federal and state resources agencies.

c. *Class III:* All permit applications not included in Classes I and II.

4. *General Rules for Processing and Review of Permit Applications.*

a. All reviews by higher authority will be *sequential.* If the District Engineer makes a determination on the application that is contrary to the stated position of the NMFS Regional Director, DOC may have the application reviewed as follows:

(1) *Class I:* The comparable officials of DOC may have the application reviewed by the Division Engineer, by the Chief of Engineers, by the Assistant Secretary of the Army for Civil Works (ASA(CW)), and, finally, by the Secretary of the Army.

(2) *Class II:* The comparable officials of NOAA/NMFS may have the application reviewed by the Division Engineer, by the Chief of Engineers, and, finally, by the ASA(CW).

(3) *Class III:* The NMFS Regional Director may have the application reviewed by the Division Engineer.

b. For all three classes of applications, DOC must document the issues it wishes to raise on review and shall update such documentation for each subsequent level of review. Such documentation shall include a description of:

(1) the issues;

(2) field level coordination;

(3) agreements or counter-proposals that have been offered;

(4) quantitative and qualitative evaluations of expected cumulative or substantial impacts that could occur; and

(5) proposed resolutions of policy or other issues raised.

c. DOC is entitled to take the position at each level of the review process that an application is within Class II, rather than Class III. Even if the Corps should determine that a case is within Class III rather than Class II, a determination that can be made at any level, DOC would still have the right to have the application elevated to the next level of review until the ASA(CW) makes a final determination of that issue in deciding whether to review the application under this agreement.

d. At each level of review above the District Engineer, unless otherwise constrained by law or regulation, and subject to the rights of DOC to seek further review as provided in this agreement, the reviewing officer will have the authority to (1) decide that the permit should be issued or denied or (2) decide only the issue that has been raised and send the application back to a level where a decision on permit issuance can be made. However, in those instances where either the Chief of Engineers or the ASA(CW) determines that a case is within Class III rather than Class II, he shall indicate the rationale for that determination, but neither of them shall be obligated to (yet, in their discretion, may) express their opinion on all the issues raised by DOC.

e. At each level of review, DOC will, within the time limits specified in paragraph 5 below, have ample opportunity for consultation. More time is allotted for field coordination in recognition of the geographic separation of many coordinating offices and the need for their reliance on postal services; correspondence at the Washington level shall be hand delivered between coordinating offices. Such consultation may be initiated by DOC or the Corps and shall be fully documented in accordance with subparagraph b above. The consultations, should normally involve meetings, exchanges of written views, or both, as the parties may mutually agree is appropriate. Staff meetings are encouraged for the consultations, but at least one complete exchange of written views on issues shall document agency positions. Except in those instances where negotiations involve final decision-making, the officials named herein may be represented by staff members, provided they have been delegated sufficient authority to negotiate the issues that are the subject of such meetings.

f. DOC has the opportunity to seek review above the district level only once on issues then germane and ripe for review. For example, if the issue raised by DOC concerns an emerging policy and subsqeuently the MOA review process on that issue is completed and the application is sent back to the District Engineer for decision-making, it would not be permissible for DOC to contend, upon a subsequent decision to issue the permit, that demonstrably substantial impacts had been ignored. However, in all instances in which, after completion of higher level review, the case is sent back to the District Engineer for further decision-making on the application, the District Engineer shall communicate the substance of his proposed decision to the NMFS Regional Director and provide an opportunity to review it. Should DOC subsequently contend that the District Engineer has misinterpreted the higher level review decision or has failed to apply it appropriately, the Army will decide whether the appeal will be processed sequentially, as specified in paragraphs 4a and 5, or brought directly to the higher Army authority which made the review decision.

5. *Specific Processing Times and Procedures.*

a. *Notices to DOC.* The Corps will send NMFS regions and area offices public notices for those categories of activities which they have stated an interest in reviewing. Request for such notices should be made in writing to the appropriate District Engineer. In the case of NMFS regions which are being provided with public notices on the basis of arrangements currently in effect, those arrangements will continue unless a request for a change is made.

b. *Timely DOC Reports Required.* NMFS will send reports with recommendations on the application in time to reach the Corps within the comment period specified in the public notice (normally 30 calendar days). NMFS may request an extention of the comment period in writing before the expiration date. The request should be supported with adequate justification and should specify the additional review time needed. The Corps will normally grant the extention but not to allow a total comment period of more than 75 calendar days from the date of the public notice and will not thereafter reopen the comment period, provided that adequate data and information has been provided in a timely manner by the applicant. The parties further understand that normally, if NMFS makes no response during the comment period, as extended, it will not report on the application. The parties recognize, however, that other applicable law, including the Endangered Species Act, may require DOC to have opportunity to comment further on the application in carrying out its responsibilities under such law, and nothing herein shall be construed to limit DOC's responsibilities or discretion under such laws.

c. *Timely Corps Decisions.* The Corps will make its decision on all applications not later than 90 calendar days after issuance of the public notice unless:

(1) precluded as a matter of law or procedures required by law, regulation, or other memoranda of agreement (see 5e below);

(2) the application must be referred to higher authority (see 5f below);

(3) the comment period is extended to more than 45 days from the date of the public notice;

(4) a timely rebuttal or resolution of objections is not received from the applicant;

(5) the processing is suspended at the request of the applicant; or

(6) information needed by the District Engineer for a decision on the application is unavailable and cannot be obtained within the 90-day period.

In such cases, the processing time limitation will be extended by the number of additional days required to satisfy or eliminate the exceptions identified in items (1) through (6) above. For example, under item (3) above, if the comment period is extended to 75 days (30 days more than the 45 days mentioned above), the Corps will, absent other exceptions, decide on the application within 120 days from the date of the public notice. For items (4), (5), and (6) above, it is understood that the District Engineer will immediately forward to the applicant any DOC request for additional information or report recommending denial or modification of the application, and shall, when he believes it appropriate, convene joint meetings with the applicant and DOC in an attempt to resolve the concerns.

d. *Applicant Initiatives.* It is further understood that where DOC objections are involved, the applicant may:

(1) resolve the objections by agreeing to recommended modifications;

(2) request continued processing despite objections, either with or without providing counter arguments;

(3) request suspension of processing to provide time either for negotiations with DOC or for preparation of counter arguments; or

(4) withdraw the application.

e. *Expediting Compliance with Applicable Laws.* Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the Preservation of Historical and Archaeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, the Marine Protection, Research and Sanctuaries Act, and the Fish and Wildlife Coordination Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, special studies and testing, agency jurisdictional determinations, etc., which may prevent the Corps from being able to make its decision on certain applications within 90 days. NMFS and the Corps agree to do everything possible to insure that decisions on such applications are made as quickly as possible within the framework of the applicable laws, regulations, this agreement, and other memoranda of agreement.

f. *Review Time Limitations and Officials Involved.* (1) *The District Engineer*—If the District Engineer decides a permit should be issued and there are unresolved objections by NMFS he will furnish his determination (and other relevant documents, including those requested in advance by the Regional Director to the extent available) to the NMFS Regional Director who then has 20 working days from the date of the District Engineer's letter to request in writing a review by the Division Engineer. The request from the Regional Director to the Division Engineer shall include the documentation called for by paragraph 4b above. The District Engineer will forward the application report (case) to the Division Engineer within 20 working days from the date of the Regional Director's request for review.

(2) *The Division Engineer*—The Division Engineer will review the record and make his own public interest determination on the application within 30 working days of the date of the District Engineer's report. During this period, he will consult with the NMFS Regional Director in an attempt to develop a mutually acceptable resolution of the case. If the Division Engineer concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Regional Director in writing of his determination on the application, including, where appropriate, his position on whether the application is within Class II or Class III. For Class I and II applications, DOC has 20 working days from the date of such notification to request in writing a review by the Chief of Engineers. The request for review shall be made to the Chief of Engineers by the Assistant Administrator for Fisheries and shall include the updated documentation called for by paragraph 4b above. The Division Engineer will forward the case within 15 working days from the date of the Assistant Administrator's request.

(3) *The Chief of Engineers*—The Chief of Engineers will immediately review the record and make his own public interest determination on the application (or decide issues or make Class determinations as provided for in paragraph 4d) within 30 working days from the date of the Division Engineer's report. During this period, the Chief of Engineers will consult with the Assistant Administrator for Fisheries, in an attempt to develop a mutually acceptable resolution of the case. If the Chief of Engineers concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Assistant Administrator in writing of his determination on its classification. DOC has 15 working days from the date of such notification to request a review of the case by the ASA (CW). The request for review must be made to the ASA (CW) by the Deputy Administrator of NOAA and will include the updated documentation called for by paragraph 4b above. The Chief of Engineers will forward the case within 15 working days from the date of the Deputy Administrator's request to the ASA (CW).

(4) *The Assistant Secretary of the Army for Civil Works*—The ASA (CW) will review the record and make his own public interest determination on the application, or decide only the specific issues raised within 30 working days from the date of the Chief of Engineers report, unless he decides that a case is within Class III as provided in paragraph 4d. During this period, the ASA (CW) will consult with the Deputy Administrator of NOAA in an attempt to develop a mutually acceptable resolution of the case. If the ASA (CW) concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Deputy Administrator in writing of his determination on the application. For Class I applications, DOC has 15 working days from the date of such notification to request a review of the case by the Secretary of the Army. The request for review must be made to the Secretary of the Army by the Administrator of NOAA with the concurrence of the Secretary of Commerce and will include the updated documentation called for by paragraph 4b above. The ASA (CW) will forward the case to the Secretary of the Army within 15 working days from the date of the Administrator's request.

(5) The Secretary of the Army, in consultation with the Administrator of NOAA, will make a final decision on the application within 45 working days from the date of the ASA (CW)'s report.

(6) Notifications of Corps positions and requests for higher authority reviews will be valid only if signed by the indicated official or an official authorized to act in his absence, except that the Director of Civil Works may routinely act for the Chief of Engineers.

(7) At any step during the procedures prescribed above, the parties may mutually conclude that concerns of DOC have been either fully addressed or that an impasse has been reached but referral of the application to the next higher echelon is unwarranted before a final decision can be made. The absence of a response from DOC during the period allotted DOC to request a referral will indicate that DOC does not desire further referral, but Army officials will contact DOC at the end of such period to verify that a review request was, in fact, not made.

(8) Some permit cases may involve a record of such length and/or issues of such complexity that Army and/or DOC review decisions could not reasonably be anticipated within the time constraints imposed above. This is especially true if additional studies or research, possibly requiring public comment, are essential to the decision at hand. In this event, both agencies will consult and impose new deadlines for review consistent with the objectives of this MOA.

6. *General Permits.* The Corps has found general permits, issued on both regional and nationwide bases, to be the most effective way, where appropriate, for reducing duplication, paperwork, and delays. NMFS/NOAA and the Corps pledge to cooperate fully to assure the successful continuation of this vital program. It is the intent of the parties to assure enforcement of their terms and conditions. NMFS/NOAA will assist the Corps in its efforts to remain aware of potential cumulative impacts that may occur as a result of construction activities covered by general permits.

7. *Joint Processing of Permit Applications.* To further expedite Federal decisions on activities requiring Department of the Army permits, District Engineers and Regional Administrators, responsible for administering other Federal permit programs, are encouraged to enter into arrangements to process and evaluate jointly Army and DOC permit applications related to the same activity. This may include the issuance of joint public notices, the conduct of joint public hearings, and the joint review and analysis of information and comments developed in response to the public notice, public hearing, environmental assessment and the EIS (if any), and other laws with regard to which DOC has specific responsibilities.

8. *Effective Date and Duration.* This agreement is effective immediately upon its signing by both the Secretary of the Army and the Secretary of Commerce and applies to all permit applications in process at that time. After 30 months, the parties will review and revise the agreement as is appropriate. If, however, such revisions are not agreed upon within six months after the 30-month period, then either party may terminate this agreement at the end of such six-month period, provided that all pending cases for which review has been requested under this MOA shall continue to be bound by this MOA, unless the parties mutually agree otherwise. It is further recognized that revisions may become necessary at any time if conflicts result from new law, executive order, or deficiencies not now apparent in this agreement. In such event, the parties will consult to attempt to resolve the issues and amend this MOA accordingly.

Date: March 18, 1980.

Phillip M. Klutznick,

Secretary of Commerce.

Date: March 24, 1980.

Clifford L. Alexander,

Secretary of the Army.

Appendix G—Memorandum of Agreement Between the Secretary of the Interior and the Secretary of the Army

1. *Purposes of the Agreement.* Section 404(q) of the Clean Water Act recognizes that the programs of various Federal agencies either impact or are impacted by the Section 404 permit program and the activities that program regulates. Section 404(q) Memoranda of Agreement (MOAs), therefore, should be designed to ensure the timely and constructive involvement, including consideration of the views, of Federal agencies in the Section 404 regulatory permit application process so as (1) to help protect the public interests involved; (2) to minimize, to the maximum extent practicable, duplication, needless paperwork and delays in the processing of permit applications; and (3) to assure that, to the maximum extent practicable, a decision is made on the application within 90 days of issuance of the public notice. The purpose of this agreement between the Secretary of the Army and the Secretary of the Interior, under Section 404(q), is to achieve these objectives of Section 404 of the Clean Water Act.

In particular, the parties agree that:

a. In most instances, decisions on permit applications can be made most timely if made at the lowest level of authority; therefore, the great majority of decisions should be made at this level. Accordingly, the parties will make every effort to resolve differences at the lowest possible organizational level and will encourage personal contacts for such resolution.

b. Consultations with applicants for major projects prior to formal permit application may help to resolve problems at the Army Corps of Engineers (Corps) District level, and such consultations are encouraged.

c. The opportunity for review by higher authority of a small number of permit applications having unresolved Federal agency objections will help achieve the objectives of this agreement only if (1) issues that may be raised are directly related to the statutory mandates and concerns of the Department of the Interior (DOI), and (2) review is carried out in accordance with clearly specified procedures under appropriate time constraints.

d. The U.S. Fish and Wildlife Service (FWS) has authority and responsibility for reporting DOI findings and recommendations on applications under review by other DOI bureaus. However, it is appropriate for the Corps to consult directly with other DOI bureaus to resolve specific concerns on applications.

e. For DOI Projects:

(1) As soon as practicable within the planning process for a DOI project which would need an Army permit, the appropriate DOI bureau or office shall establish and maintain interstaff communications with the Corps, other Federal and State agencies, and other interested DOI bureaus for the purposes of reducing duplication and delays.

(2) If DOI detemines that its proposed project requires and Environmental Impact Statement (EIS), the Corps and DOI shall cooperate to assure that the EIS adequately covers that portion of the work requiring an Army permit so that the Corps may rely on the DOI EIS to satisfy the National Environmental Policy Act (NEPA) requirements for processing the permit application.

(3) DOI shall make timely applications for Army permits and provide sufficient information for the Corps to process them. Each DOI bureau is responsible for applying for DA permits for its own activites.

2. *Scope and Interpretation of Agreement.* This agreement applies to the processing of Department of the Army (DA) permit applications under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research and Sanctuaries Act. It does not pertain to permit applications processed under Section 9 of the Rivers and Harbors Act of 1899, nor to Civil Works projects of the Corps of Engineers. As the context requires, the term "DOI" may mean the appropriate official(s) of any bureau or office within the Department. The terms "he" and "his" may also mean "she" and "her", respectively.

3. *Classification of Permits for MOA Purposes.* The permit applications encompassed by this MOA are divided into three classes, as follows:

a. *Class I:* Permit applications where an EIS has been prepared in accordance with NEPA and (1) the Corps is the lead agency for conducting the review required by NEPA, or (2) the Corps is not the lead agency but the activities subject to Corps permit authority (e.g., discharge of dredge and fill material or structures or other work in the waters of the United States) are of concern to DOI.

b. *Class II:* Permit applications for projects that:

(1) Relate to emerging policy issues, alleged violations or erroneous application of existing policy (set forth, for example, in law, regulation or executive order), or involve some other precedent-setting potential impacting on or relating to the permit program;

(2) Have substantial individual impacts; or

(3) Contribute to a cumulative impact of demonstrably substantial proportions.

In determining whether an impact is "substantial" within the meanings of subparagraphs (2) and (3) above, and thus determining whether a case is within Class II rather than Class III, the parties should consider, among other factors, the actual physical extent and quality of the area to be affected, the degree of public interest in the proposal, and the positions of other Federal and state resources agencies.

c. *Class III:* All permit applications not included in Classes I and II:

4. *General Rules for Processing and Review of Permit Applications.*

a. All reviews by higher authority will be *sequential.* If the District Engineer makes a determination on the application that is contrary to the stated position of the DOI

(FWS), the DOI (FWS) may have the application reviewed as follows:

(1) *Class I:* The comparable officials of DOI may have the application reviewed by the Division Engineer, by the Chief of Engineers, by the Assistant Secretary of the Army for Civil Works (ASA(CW)), and, finally, by the Secretary of the Army.

(2) *Class II:* The comparable officials of DOI may have the application reviewed by the Division Engineer, by the Chief of Engineers, and, finally, by the ASA(CW).

(3) *Class III:* The FWS Regional Director may have the application reviewed by the Division Engineer.

b. For all three classes of applications, DOI must document the issues it wishes to raise on review and shall update such documentation for each subsequent level of review. Such documentation shall include a description of:

(1) the issues;

(2) field level coordination;

(3) agreements or counter-proposals that have been offered;

(4) quantative and qualitative evaluations of expected cumulative or substantial impacts that could occur; and

(5) proposed resolutions of policy or other issues raised.

c. DOI is entitled to take the position at each level of the review process that an application is within Class II, rather than Class III. Even if the Corps should determine that a case is within Class III rather than Class II, a determination that can be made at any level, DOI would still have the right to have the application elevated to the next level of review until the ASA(CW) makes a final determination of that issue in deciding whether to review the application under this agreement.

d. At each level of review above the District Engineer, unless otherwise constrained by law or regulation, and subject to the rights of DOI to seek further review as provided in this agreement, the reviewing officer will have the authority to (1) decide that the permit should be issued or denied, or (2) decide only the issue that has been raised and send the application back to a level where a decision on permit issuance can be made. However, in those instances where either the Chief of Engineers or the ASA(CW) determines that a case is within Class III rather than Class II, he shall indicate the rationale for that determination, but neither of them shall be obligated to (yet, in their discretion, may) express their opinion on all the issues raised by DOI.

e. At each level of review, DOI will, within the time limits specified in paragraph 5 below, have ample opportunity for consultation. More time is allotted for field coordination in recognition of the geographic separation of many coordinating offices and the need for their reliance on postal services; correspondence at the Washington level shall be hand delivered between coordinating offices. Such consultation may be initiated by DOI or the Corps and shall be fully documented in accordance with subparagraph b above. The consultations should normally involve meetings, exchanges of written views, or both, as the parties may mutually agree is appropriate. Staff meetings are encouraged for the consultations, but at least one complete exchange of written views on issues shall document agency positions. Except in those instances where negotiations involve final decision-making, the officials named herein may be represented by staff members, provided they have been delegated sufficient authority to negotiate the issues that are the subject of such meetings.

f. DOI has the opportunity to seek review above the district level only once on issues then germane and ripe for review. For example, if the issue raised by DOI concerns an emerging policy and subsequently the MOA review process on that issue is completed and the application is sent back to the District Engineer for decision-making, it would not be permissible for DOI to contend, upon a subsequent decision too issue the permit, that demonstrably substantial impacts had been ignored. However, in all instances in which, after completion of higher level review, the case is sent back to the District Engineer for further decision-making on the application, the District Engineer shall communicate the substance of his proposed decision to the appropriate DOI official and provide an opportunity to review it. Should DOI subsequently contend that the District Engineer has misinterpreted the higher level review decision or has failed to apply it appropriately, the Army will decide whether the appeal will be processed sequentially, as specified in paragraphs 4a and 5, or brought directly to the higher Army authority which made the review decision.

5. *Specific Processing Times and Procedures.*

a. *Notices to DOI.* The Corps will send DOI bureaus and offices public notices for those categories of activities which they have stated an interest in reviewing. Request for such notices should be made in writing to the appropriate District Engineer. In the case of DOI bureaus and offices which are being provided with public notices on the basis of arrangements current in effect, those arrangements will continue unless a request for a change is made.

b. *Timely DOI Reports Required.* DOI will send reports with recommendations on the application in time to reach the Corps within the comment period specified in the public notice (normally 30 calendar days). DOI may request an extension of the comment period in writing before the expiration date. The request should be supported with adequate justification and should specify the additional review time needed. The Corps will normally grant the extension but not to allow a total comment period of more than 75 calendar days from the date of the public notice and will not therefore reopen the comment period, provided that adequate data and information has been provided in a timely manner by the applicant. The parties further understand that normally, if DOI makes no response during the comment period, as extended, it will not report on the application. The parties recognize, however, that other applicable law, including the Endangered Species Act, may require DOI to have opportunity to report further on the application in carrying out its responsibilities under such law, and nothing herein shall be construed to limit DOI's responsibilities or discretion under such law.

c. *Timely Corps decisions.* The Corps will make its decision on all applications not later than 90 calendar days after issuance of the public notice unless:

(1) precluded as a matter of law or procedures required by law, regulation, or other memoranda of agreement (see 5e below);

(2) the application must be referred to higher authority (see 5f below);

(3) the comment period is extended to more than 45 days from the date of the public notice;

(4) a timely rebuttal or resolution of objections is not received from the applicant;

(5) the processing is suspended at the request of the applicant; or

(6) information needed by the District Engineer for a decision on the application is unavailable and cannot be obtained within the 90-day period.

In such cases, the processing time limitation will be extended by the number of additional days required to satisfy or eliminate the exceptions identified in items (1) through (6) above. For example, under item (3) above, if the comment period is extended to 75 days (30 days more than the 45 days mentioned above), the Corps will, absent other exceptions, decide on the application within 120 days from the date of the public notice. For items (4), (5) and (6) above, it is understood that the District Engineer will immediately forward to the applicant any DOI request for additional information or report recommending denial or modification of the application, and shall, when he believes it appropriate, convene joint meetings with the applicant and DOI in an attempt to resolve the concerns.

d. *Applicant Initiatives.* It is further understood that where DOI objections are involved, the applicant may:

(1) resolve the objections by agreeing to recommended modifications;

(2) request continued processing despite objections, either with or without providing counter arguments;

(3) request suspension of processing to provide time either for negotiations with DOI or for preparation of counter arguments; or

(4) withdraw the application.

e. *Expediting Compliance with Applicable Laws.* Certain laws (e.g., the Clean Water Act, the Coastal Zone Management Act, the National Environmental Policy Act, the Preservation of Historical and Archaeological Data Act, the Endangered Species Act, the Wild and Scenic Rivers Act, the Marine Protection, Research and Sanctuaries Act, and the Fish and Wildlife Coordination Act) require procedures such as state or other Federal agency certifications, public hearings, environmental impact statements, special studies and testing, agency jurisdictional determinations, etc., which may prevent the Corps from being able to make its decision on certain applications within 90 days. DOI and the Corps agree to do everything possible to insure that decisions on such applications are made as quickly as possible within the framework of the applicable laws, regulations, this agreement, and other memoranda of agreement.

f. *Review Time Limitations and Officials Involved.*

(1) *The District Engineer*—If the District Engineer decides a permit should be issued and there are unresolved objections by DOI he will furnish his determination (and other relevant documents, including those requested in advance by the FWS Regional Director to the extent available) to the FWS Regional Director who then has 20 working days from the date of the District Engineer's letter to request in writing a review by the Division Engineer. The request from the Regional Director to the Division Engineer shall include the documentation called for by paragraph 4b above. The District Engineer will forward the application report (case) to the Division Engineer within 20 working days from the date of the Regional Director's request for review.

(2) *The Division Engineer*—The Division Engineer will review the record and make his own public interest determination on the application within 30 working days of the date of the District Engineer's report. During this period, he will consult with the FWS Regional Director in an attempt to develop a mutually acceptable resolution of the case. If the Division Engineer concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Regional Director in writing of his determination on the application, including, where appropriate, his position on whether the application is within Class II or Class III. For Class I and II applications, DOI has 20 working days from the date of such notification to request in writing a review by the Chief of Engineers. The request for review shall be made to the Chief of Engineers by the Director of the U.S. Fish and Wildlife Service and shall include the updated documentation called for by paragraph 4b above. The Division Engineer will forward the case within 15 working days from the date of the Director's request.

(3) *The Chief of Engineers*—The Chief of Engineers will immediately review the record and make his own public interest determination on the application (or decide issues or make Class determinations as provided for in paragraph 4d) within 30 working days from the date of the Division Engineer's report. During this period, the Chief of Engineers will consult with the Director of the U.S. Fish and Wildlife Service, in an attempt to develop a mutually acceptable resolution of the case. If the Chief of Engineers concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Director in writing of his determination of the application including, where appropriate, his determination on its classification. DOI has 15 working days from the date of such notification to request a review of the case by the ASA(CW). The request for review must be made to the ASA(CW) by the Assistant Secretary for Fish and Wildlife and Parks (FWP) and will include the updated documentation called for by paragraph 4b above. The Chief of Engineers will forward the case within 15 working days from the date of the Assistant Secretary's (FWP) request to the ASA(CW).

(4) *The Assistant Secretary of the Army for Civil Works*—The ASA(CW) will review the record and make his own public interest determination on the application, or decide only the specific issues raised within 30 working days from the date of the Chief of Engineers report, unless he decides that a case if within Class III as provided in paragraph 4d. During this period, the ASA(CW) will consult with the Assistant Secretary (FWP) in an attempt to develop a mutually acceptable resolution of the case. If the ASA(CW) concludes that further negotiations will not lead to a mutually acceptable resolution of the case, he will immediately notify the Assistant Secretary (FWP) in writing of his determination on the application. For Class I applications, DOI has 15 working days from the date of such notification to request a review of the case by the Secretary of the Army. The request for review must be made to the Secretary of the Army by the Secretary of the Interior and will include the updated documentation called for by paragraph 4b above. The ASA(CW) will forward the case to the Secretary of the Army within 15 working days from the date of the Secretary of the Interior's request.

(5) The Secretary of the Army, in consultation with the Secretary of the Interior, will make a final decision on the application within 45 working days from the date of the ASA(CW)'s report.

(6) Notifications of Corps positions and requests for higher authority reviews will be valid only if signed by the indicated official or an official authorized to act in his absence, except that the Director of Civil Works may routinely act for the Chief of Engineers.

(7) At any step during the procedures prescribed above, the parties may mutually conclude that concerns of DOI have been either fully addressed or that an impasse has been reached but referral of the application to the next higher echelon is unwarranted before a final decision can be made. The absence of a response from DOI during the period allotted DOI to request a referral will indicate that DOI does not desire further referral, but Army officials will contact DOI at the end of such period to verify that a review request was, in fact, not made.

(8) Some permit cases may involve a record of such length and/or issues of such complexity that Army and/or DOI review decisions could not reasonably be anticipated within the time constraints imposed above. This is especially true if additional studies or research, possibly requiring public comment, are essential to the decision at hand. In this event, both agencies will consult and imposed new deadlines for review consistent with the objectives of this MOA.

6. *General Permits.* The Corps has found general permits, issued on both regional and nationwide bases, to be the most effective way, where appropriate, for reducing duplication, paperwork, and delays. DOI and the Corps pledge to cooperate fully to assure the successful continuation of this vital program. It is the intent of the parties to assure enforcement of their terms and conditions. DOI will assist the Corps in its efforts to remain aware of potential cumulative impacts that may occur as a result of construction activities covered by general permits.

7. *Joint Processing of Permit Applications.* To further expedite Federal decisions on activities requiring Department of the Army permits, District Engineers and appropriate DOI officials, responsible for administering other Federal permit programs, are encouraged to enter into arrangements to process and evaluate jointly Army and DOI permit applications related to the same activity. This may include the issuance of joint public notices, the conduct of joint public hearings, and the joint review and analysis of information and comments developed in response to the public notice, public hearing, environmental assessment and the EIS (if any), and other laws with regard to which DOI has specific responsibilities.

8. *Effective Date and Duration.* This agreement is effective immediately upon its signing by both the Secretary of the Army and the Secretary of the Interior and applies to all permit applications in process at that time. After 30 months, the parties will review and revise the agreement as is appropriate. If, however, such revisions are not agreed upon within six months after the 30-month period, then either party may terminate this agreement at the end of such six-month period, provided that all pending cases for which review has been requested under this MOA shall continue to be bound by this MOA, unless the parties mutually agree otherwise. It is further recognized that revisions may become necessary at any time if conflicts result from new law, executive order, or deficiencies not now apparent in this agreement. In such event, the parties will consult to attempt to resolve the issues and amend this MOA accordingly.

9. The Memorandum of Understanding between the Secretary of the Interior and the Secretary of the Army on permit processing dated July 13, 1967, is hereby terminated.

Date: February 28, 1980.

Cecil D. Andrus,

Secretary of the Interior.

Date: March 24, 1980.

Clifford A. Alexander, Jr.

Secretary of the Army.

Appendix H—Memorandum of Agreement Between the Secretary of Transportation and the Secretary of the Army on Permit Processing

1. *Purpose and Scope.* a. This agreement between the Secretary of Transportation and the Secretary of the Army is made under Section 404(q) of the Clean Water Act which reads as follows:

(q) * * * [t]he Secretary [of the Army] shall enter into agreements with the Administrator [of the Environmental Protection Agency], the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice for such application is published under subsection (a) of this section.

b. Since the reduction of duplication, paperwork, and delays is a goal in all Department of the Army (DA) regulatory programs, this agreement is also applicable to other DA regulatory authorities, particularly Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

c. The procedures set forth in this Memorandum of Agreement will be utilized to strengthen the early coordination between DOT and the Corps prior to and during development of projects and the environmental documentation.

2. *Definitions.* The definitions contained in the Council on Environmental Quality Regulations (40 CFR 1508) are applicable to this Memorandum of Agreement.

a. "Corps" means the Corps of Engineers or any official of the Corps of Engineers acting within his or her regulatory authority on behalf of the Secretary of the Army.

b. "DOT" means the Department of Transportation or any official of any element within the Department of Transportation acting within his or her authority in the application for a DA permit.

c. "DOT Action" means an undertaking authorized, licensed, funded or carried out by the DOT which may require a DA permit, to the extent that is has not been exempted by law from such a requirement or covered in a general permit.

d. "Applicant" means the DOT, state or local agency or private party responsible for initiation of a DOT action and making application for a DA permit.

e. "Environmental documentation" means any document prepared by either DOT or the Corps to comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and the Council on Environmental Quality's NEPA implementing regulations.

3. *Lead Agency for Environmental Processes.* a. When a DOT action requires processing by both the Corps and DOT, DOT will ordinarily be the lead agency for the environmental documentation, and the procedures set forth in paragraphs 3b, 3c, and 3d shall apply. For the following exceptions, the lead agency and the procedures to be followed will be agreed upon on a case-by-case basis:

(1) Unusual cases, such as a minor DOT action that is a small part of a large activity requiring a DA permit.

(2) An action requiring action by both the Corps and the Coast Guard other than one involving statutes governing the construction, alteration, or removal of bridges over navigable waters of the United States.

b. As soon as practicable within the planning process of a DOT action involving the need for a DA permit, DOT or the applicant will establish and maintain communication with the Corps for the purposes of reducing duplication and delays. The intent is that the evaluation of impacts upon the human environment for all reasonable alternatives will satisfy the requirements of both DOT and the Corps, allow the Corps to accept DOT resolution of issues raised during the environmental processing, and minimize further review of such issues during the permit process.

c. For DOT actions requiring a DA permit, DOT will be responsible for environmental documentation in accordance with the applicable DOT Orders and paragraph 3a above. These documents will demonstrate, where applicable, consideration of and compliance with the substantive requirements of Federal environmental statutes and executive orders including but not limited to:

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*)
Executive Order 11988 (Floodplain Management)
Executive Order 11990 (Protection of Wetlands)
Fish and Wildlife Coordination Act (16 U.S.C. 661–666c)
Endangered Species Act (16 U.S.C. 1531 *et seq.*)
National Historic Preservation Act (16 U.S.C. 470 *et seq.*)
Archeological and Historic Preservation Act of 1974 (P.L. 93–291)
Wild and Scenic Rivers Act (16 U.S.C. 1271–1287)
Coastal Zone Management (16 U.S.C. 1451–1464)

d. As the lead agency, the DOT will.

(1) Consult with the Corps during the evaluation as to whether a proposed DOT action is a major action significantly affecting the quality of the human environment or is categorically excluded.

(2) When DOT determines that a project requires either an EIS or an environmental assessment, solicit Corps' participation as a cooperating agency to insure that the environmental documentation adequately covers the portion of the work requiring a DA permit.

(3) Provide a copy of the draft EIS or environmental assessment to the Corps for review and comments.

(4) As provided by CEQ regulations and DOT procedures, attempt to resolve environmental issues raised in comments on the draft EIS, prior to approval of the final EIS.

(5) Provide the Corps a copy of the final EIS or environmental assessment at the time the document is prepared.

4. *Cooperating Agency.* When a DOT action requires processing by both the Corps and DOT, and DOT determines that the project requires either an EIS or an environmental assessment, the Corps will function as a cooperating agency to insure consideration of and compliance with the substantive requirements of the Clean Water Act (33 U.S.C. 1251–1376) applicable to the Corps' regulatory program. The DOT will seek to resolve areas of disagreement with the Corps prior to DOT action on the environmental documentation.

5. *Public Hearings.* The DOT and the Corps will make every reasonable effort, within controlling regulations, to avoid duplicative public hearings. Whenever possible, joint hearings will be held.

6. *DA Permit.* a. The Corps' public interest review will be limited to the geographic vicinity of the specific activity requiring a DA permit. The Corps will normally adopt the DOT environmental processing and documentation, pursuant to Section 1506.3 of the CEQ regulations, and rely on this in its decision document on the permit application. It is understood that DOT and the Corps may occasionally reach different conclusions regarding the environmental documentation. In such cases, the Corps may find it necessary to prepare additional environmental documentation.

b. The Corps agrees, when requested by DOT or the applicant, to begin its public interest review in advance of receipt of an application, possibly including the issuance of a public notice either by the Corps or jointly with DOT, based on preliminary information available at the draft EIS, environmental assessment or categorical exclusion stage. The DOT or the applicant, in selecting a plan requiring an application for a DA permit, will consider all reasonable alternatives based on its own public involvement procedures, as well as comments received by and from the Corps as a result of its review.

c. At the appropriate time, in preparing the final environmental documentation, DOT will make or cause to be made application for the DA permit. Normally, this will be done as soon as a preferred action is identified and sufficient information can be developed for the Corps to process the application. The Corps agrees that the location of the proposed DOT action with approximate quantities; (e.g., of fill, dredged material, etc.) and reasonable estimates of construction grades will be sufficient to initiate permit processing.

d. Unless precluded as a matter of law or procedures required by law, the Corps will issue the public notice not later than fifteen days after receipt of all information required to complete the application for the preferred action.

e. Substantive comments, relative to the issues considered in the Corps' public interest review, received in response to a permit application public notice, will be furnished to DOT. If there are objections to permit issuance, DOT or the applicant may take one of the following actions:

(1) Resolve the objections by agreeing to recommended modifications;

(2) Request continued processing despite objections, with or without providing counterarguments;

(3) Request suspension of processing to provide time either for negotiations with objecting parties or for preparation of a response; or

(4) Withdraw the application.

The Corps may establish appropriate time limits for DOT or applicant response.

f. The Corps will make every reasonable effort to minimize the use of special conditions in permits issued for DOT actions and will consult with DOT or the applicant in their preparation. Commitments identified in environmental documents and enforceable by DOT upon an applicant will not normally be repeated in the DA permit. The Corps will normally not include any special conditions that would duplicate Federal, state or local laws or programs that accomplish the same purpose.

g. To the maximum extent practicable, the Corps will take action on a permit application not later than ninety days after public notice is issued.

h. The duration of the DA permit will be commensurate with the expected completion date of the DOT action. The Corps will consult with DOT or the applicant in establishing starting and completion dates for work covered by the permit.

7. *Consistent Administration of Corps' Regulatory Functions.* The Corps recognizes its responsibility to provide consistent administration of its permit programs throughout the country.

8. *General Permits.* The Corps has found the practice of issuing general permits on both a regional and nationwide basis to be an effective way to reduce duplication, paperwork, and delays. The DOT and the Corps pledge to do everything possible to insure the successful continuation of this vital program. The DOT will assist the Corps in remaining aware of potential cumulative impacts that may occur as a result of construction activities covered by general permits.

9. *Coast Guard Bridge Permits.* This agreement does not contravene the U.S. Coast Guard/Chief of Engineers' Memorandum of Agreement dated April 18, 1973.

10. *Effective Dates and Modifications.* This agreement shall become effective on the last signature date below, and remain in effect for three years, at which time it shall be the subject of renegotiation or extension upon mutual agreement. If either party finds within this period that its terms needs to be modified, the other party shall be notified in writing of the specific change(s) desired, with proposed language, and the reason(s) therefor. The proposed change(s) shall become effective within sixty days, unless the other party indicates in writing a desire to discuss the proposed change(s).

Dated: March 19, 1980.

Neil Goldschmidt,

Secretary of Transportation.

Dated: March 24, 1980.

Clifford L. Alexander, Jr.,

Secretary of the Army.

7. Part 326 is revised in its entirety.

PART 326—ENFORCEMENT

Sec.

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

§ 326.1 Purpose.

This regulation prescribes the policy, practice, and procedures to be followed by the Corps of Engineers in connection with activities requiring Department of the Army permits that are performed without prior authorization.

§ 326.2 Discovery of unauthorized activity.

When the district engineer becomes aware of any unauthorized activity, he shall immediately issue an order prohibiting further work to all persons responsible for and/or involved in the performance of the activity and may order interim protective work.

§ 326.3 Investigation.

(a) *Initial investigation.* Immediately upon discovery of an unauthorized activity, the district engineer shall commence an investigation to ascertain the facts surrounding the activity. In making this investigation the district engineer may solicit the views of the Regional Administrator of the Environmental Protection Agency, the Regional Director of the U.S. Fish and Wildlife Service, and the Regional Director of the National Marine Fisheries Service, and other Federal, State, and local agencies, as appropriate. He shall also request the persons involved in the unauthorized activity to provide appropriate information on the activity to assist him in his evaluation and in recommending the course of action to be taken.

(b) *Remedial work.* (1) The district engineer shall determine whether as a result of the unauthorized activity life, property or important public resources are in serious jeopardy which would require expeditious measures for protection of those resources. Such measures may range from minor modification of the existing work to complete restoration of the area involved. Important public resources are identified in 33 CFR 320.4. If the district engineer determines that immediate remedial work is required, he shall issue an appropriate order describing the work, conditions and time limits required for protection of the resource.

(2) Restoration by the responsible party on his own initiative shall be allowed if he volunteers to restore and legal action is not otherwise necessary. No authorization will be required when complete and satisfactory restoration is accomplished.

(c) *Acceptance of after-the-fact application.* The district engineer shall accept an application for an after-the-fact permit for all unauthorized activities unless:

(1) Civil action to enforce an order issued pursuant to § 326.2 is required;

(2) Criminal action is appropriate (see § 326.4(a)(1) below); or

(3) Where life, property or important public resources are subject to irretrievable loss, and any remedial work which is ordered pursuant to paragraph (b) of this section has not been completed.

In the above situations, the district engineer may accept an after-the-fact application provided he obtains approval of the next higher authority.

§ 326.4 Legal action.

(a) *Criminal vs. civil action.* District engineers shall be guided by the following policies in determining whether an unauthorized activity requires appropriate legal action:

(1) *Criminal action.* Criminal action is considered appropriate when the facts surrounding an unauthorized activity reveal the necessity for punitive action and/or when deterrence of future unauthorized activities in the area is considered essential to the establishment or maintenance of a viable permit program.

(2) *Civil action.* Civil action is considered appropriate when the evaluation of the unauthorized activity reveals that (i) restoration is in the public interest and attempts to secure voluntary restoration have failed, (ii) the unauthorized activity would be in the public interest if altered or modified but attempts to secure voluntary alteration or modification have failed such that a judicial order is necessary, or (iii) a civil penalty under Section 309 of the Clean Water Act is warranted.

(b) *Preparation of case.* If the district engineer determines that legal action is appropriate, he shall prepare a litigation report which shall contain an analysis of the data and information obtained during his investigation and a recommendation of appropriate civil and criminal action. In those cases where the analysis of the facts

developed during his investigation and/or the after-the-fact application evaluation leads to the preliminary conclusion that removal of the unauthorized activity is in the public interest, the district engineer shall also recommend restoration of the area to its original or comparable condition.

(c) *Referral to local U.S. Attorney.* Except as provided in paragraph (d), of this section district engineers are authorized to refer the following cases directly to the local U.S. Attorney. Information copies of all letters of referral shall be forwarded to the Chief of Engineers, ATTN: DAEN–CCK, for transmittal to the Chief, Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

(1) Unauthorized structures or work in or affecting navigable waters of the United States that fall exclusively within the purview of Section 10 of the River and Harbor Act of 1899 (see 33 CFR Part 322) for which a criminal fine or penalty under Section 12 of that Act (33 U.S.C. 406) is considered appropriate.

(2) Civil action involving small unauthorized structures, such as piers, which the district engineer determines are (i) not in the public interest and therefore must be removed, or (ii) the unauthorized activity would be in the public interest if altered or modified but attempts to secure voluntary alteration or modification have failed such that a judicial order is necessary.

(3) Violations of Section 301 of the Clean Water Act involving the unauthorized discharge of dredged or fill material into the waters of the United States where the district engineer determines, with the concurrence of the Regional Administrator, that civil and/or criminal action pursuant to Section 309 of the Clean Water Act is appropriate.

(4) Cases for which a temporary restraining order and/or preliminary injunction is appropriate following noncompliance with a cease and desist order.

(d) *Referral to Office, Chief of Engineers.* District engineers shall prepare and forward a litigation report to the Office, Chief of Engineers, ATTN: DAEN–CCK, for cases not identified in paragraph (c) of this section in which civil and/or criminal action is considered appropriate, including cases involving:

(1) Significant questions of law or fact;

(2) Discharges of dredged or fill material into waters of the United States that are not interstate waters or navigable waters of the United States, or part of a surface tributary system to these waters;

(3) Recommendations for substantial or complete restoration;

(4) Violations of Section 9 of the River and Harbor Act of 1899; and

(5) Violations of the Marine Protection, Research and Sanctuaries Act of 1972.

§ 326.5 Processing after-the-fact applications.

(a) Processing and evaluation of applications for after-the-fact authorizations for activities undertaken without the required Department of the Army permits will in all other respects follow the standard policies and procedures of 33 CFR Parts 320–325. Thus, authorization may still be denied in accordance with the policies and procedures of those regulations.

(b) Where after-the-fact authorization in accordance with this paragraph is determined to be in the public interest, the standard permit form for the activity will be used, omitting inappropriate conditions, and including whatever special conditions the district engineer may deem appropriate to mitigate or prevent undesirable effects which may have occurred or might occur.

(c) Where after-the-fact authorization is not determined to be in the public interest, the notification of the denial of the permit will prescribe any corrective action to be taken in connection with the work already accomplished, including restoration of those areas subject to denial, and establish a reasonable period of time for the applicant to complete such actions. The district engineer, after denial of the permit, will again consider whether civil and/or criminal action is appropriate in accordance with § 326.4.

(d) If the applicant declines to accept the proposed permit conditions, or fails to take corrective action prescribed in the notification of denial, or if the district engineer determines, after denying the permit application, that legal action is appropriate, the matter will be referred to the Chief of Engineers, ATTN: DAEN–CCK, with recommendations for appropriate action.

8. Part 327 is revised in its entirety.

PART 327—PUBLIC HEARINGS

Sec.

Authority: 33 U.S.C. 1344; 33 U.S.C. 1413

§ 327.1 Purpose.

This regulation prescribes the policy, practice and procedures to be followed by the U.S. Army Corps of Engineers in the conduct of public hearings conducted in the evaluation of a proposed Department of the Army permit action or Federal project as defined in § 327.3 below including those held pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA), as amended (33 U.S.C. 1413).

§ 327.2 Applicability.

This regulation is applicable to all divisions and districts responsible for the conduct of public hearings.

§ 327.3 Definitions.

(a) Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed Department of the Army permit action, or Federal project, and which affords to the public the opportunity to present their views, opinions, and information on such permit actions or Federal projects.

(b) Permit action, as used herein means the review of an application for a permit pursuant to Sections 9 or 10 of the River and Harbor Act of 1899, Section 404 of the Clean Water Act, or Section 103 of the MPRSA, as amended, or the modification or revocation of any Department of the Army permit (see 33 CFR 325.7).

(c) Federal project means a Corps of Engineers project (work or activity of any nature for any purpose which is to be performed by the Chief of Engineers pursuant to Congressional authorizations) involving the discharge of dredged of fill material into waters of the United States of the transportation of dredged material for the purpose of dumping it in ocean waters subject to Section 404 of the Clean Water Act, or Section 103 of the MPRSA. See 33 CFR 209.145. (This regulation supersedes all references to public meetings in 33 CFR 209.145).

§ 327.4 General policies.

(a) A public hearing will be held in connection with the consideration of a Department of the Army permit application, or a Federal project whenever a public hearing would assist in making a decision on such permit application or Federal project. In

addition, a public hearing may be held when it is proposed to modify or revoke a permit. (See 33 CFR 325.7).

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a Department of the Army permit application or on a Federal project, that a public hearing be held to consider the material matters in issue in the permit application or Federal project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the district engineer shall promptly set a time and place for the public hearing, and give due notice thereof, as prescribed in § 327.11 below. Requests for a public hearing under this paragraph shall be granted, unless the district engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The district engineer will make such a determination in writing, and communicate his reasons therefor to all requesting parties.

(c) In case of doubt, a public hearing shall be held. HQDA has the discretionary power to require hearings in any case.

(d) In fixing the time and place for a hearing, the convenience and necessity of the interested public will be duly considered.

§ 327.5 Presiding officer.

(a) The district engineer, in whose district a matter arises, shall normally serve as the Presiding Officer. When the district engineer is unable to serve, he may designate the deputy district engineer as such Presiding Officer. In any case, he may request the division engineer to designate another Presiding Officer. In cases of unusual interest, the Chief of Engineers reserves the power to appoint such person as he deems appropriate to serve as the Presiding Officer.

(b) The Presiding Officer shall include in the administrative record of the permit action the request or requests for the hearing and any data or material submitted in justification thereof, materials submitted in opposition to the proposed action, the hearing transcript, and such other material as may be relevant or pertinent to the subject matter of the hearing. The administrative record shall be available for public inspection with the exception of material exempt from disclosure under the Freedom of Information Act.

§ 327.6 Legal adviser.

At each public hearing, the District Counsel or his designee may, at the discretion of the District Counsel, serve as legal adviser to the presiding officer.

§ 327.7 Representation.

At the public hearing, any person may appear on his own behalf, and may be represented by counsel, or by other representatives.

§ 327.8 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in any orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing record prior to the time the hearing record is closed to public submissions, and may present proposed findings and recommendations. The Presiding Officer shall afford participants an opportunity for rebuttal.

(b) The Presiding Officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.

(c) Cross-examination of witnesses shall not be permitted.

(d) All public hearings shall be reported verbatim. Copies of the transcripts of proceedings may be purchased by any person from the Corps of Engineers or the reporter of such hearing. A copy will be available for public inspection at the office of the appropriate district engineer.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the Presiding Officer for reasons of redundancy, be received in evidence and shall constitute a part of the hearing record.

(f) At any hearing, the Presiding Officer shall make an opening statement, outlining the purpose of the hearing and prescribing the general procedures to be followed. The Presiding Officer shall afford participants an opportunity to respond to his opening statement.

(g) The Presiding Officer shall allow a period of 10 days after the close of the public hearing for submission of written comments. After such time has expired, unless such period is extended by the Presiding Officer or the Chief of Engineers for good cause, the hearing record shall be closed to additional public written comments.

(h) In appropriate cases, the district engineer may participate in joint public hearings with other Federal or State agencies, provided the procedures of those hearings meet the requirements of this regulation. In those cases in which the other Federal or State agency allow a cross-examination in its public hearing, the district engineer may still participate in the joint public hearing but shall not require cross examination as a part of his participation.

(i) The procedures in paragraphs (f) and (g) of this section may be waived by the Presiding Officer in appropriate cases.

§ 327.9 Filing of transcript of the public hearing.

Where the Presiding Officer is the initial action authority, the transcript of the public hearing, together with all evidence introduced at the public hearing, shall be made a part of the administrative record of the permit action or Federal project. The initial action authority shall fully consider the matters discussed at the public hearing in arriving at his initial decision or recommendation and shall address, in his decision or recommendation, all substantial and valid issues presented at the hearing. Where a person other than the initial action authority serves as Presiding Officer, such person shall forward the transcript of the public hearing and all evidence received in connection therewith to the initial action authority together with a report summarizing the issues covered at the hearing. The report of the Presiding Officer and the transcript of the public hearing and evidence submitted there shall in such cases be fully considered by the initial action authority in making his decision or recommendation to higher authority as to such permit action or Federal project.

§ 327.10 Powers of the presiding officer.

Presiding Officers shall have the following powers.

(a) To regulate the course of hearing including the order of all sessions and the scheduling thereof, after any initial session, and the recessing, reconvening, and adjournment thereof; and

(b) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authority under which the Chief of Engineers functions, and with the policies and directives of the Chief of Engineers and the Secretary of the Army.

§ 327.11 Public notice.

(a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice should normally provide for a period of not less than 30 days following the date of public

notice during which time interested parties may prepare themselves for the hearing. Notice shall also be given to all Federal agencies affected by the proposed action, and to State and local agencies having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and published in newspapers of general circulation.

(b) The notice shall contain time, place, and nature of hearing; the legal authority and jurisdiction under which the hearing is held; and location of and availability of the draft Environmental Impact Statement or Environmental Assessment.

PART 328—HARBOR LINES [REVOKED]

Part 328 is revoked.

PART 329—DEFINITION OF NAVIGABLE WATERS OF THE UNITED STATES

§ 329.12 [Amended]

In Part 329, § 329.12 (a)(2) is amended by deleting the second sentence which reads "However, on the Pacific Coast, the line reached by the mean of the higher high waters is used."

New Part 330 is added as follows:

PART 330—NATIONWIDE PERMITS

Sec.

Authority: 33 U.S.C. 403; 33 U.S.C. 1344.

§ 330.1 General.

The purpose of this part of the regulations is to describe the Department of the Army's nationwide permit program and to list all current nationwide permits which have been issued by publication herein. A nationwide permit is a form of general permit which authorizes a category of activities throughout the nation. General permits issued by District Engineers on a regional basis are not lised in this part; copies of such can be obtained from the appropriate District Engineer. The two types of general permits are referred to as "nationwide permits" and "regional permits." Regional permits are usually more restrictive than nationwide permits and may require reporting before and after the authorized activity occurs. Regional permits are processed pursuant to 33 CFR Part 325. Nationwide permits are designed to allow the work to occur with little, if any, delay or paperwork. However, the nationwide permits are valid only if the conditions applicable to the nationwide permits are met. Just because a condition cannot be met does not necessarily mean the activity cannot be authorized but rather that the activity will have to be authorized by an individual or regional permit. Additionally, the Chief of Engineers has the discretion, under situations and procedures described herein, to cancel the nationwide permit coverage and require an individual or regional permit. The nationwide permits are issued to satisfy the requirements of both Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act unless otherwise stated. These nationwide permits apply only to Department of the Army regulatory programs (other Federal agency, state and local authorizations may be required for the activity).

§ 330.2 Definitions.

The definitions of 33 CFR Parts 321–329 are applicable to the terms used in this part.

§ 330.3 Nationwide permits for activities occurring before certain dates.

The following activities are hereby permitted:

(a) Discharges of dredged or fill material in waters of the United States lying beyond the limits of navigable waters of the United States that occured before the phase-in dates beginning July 25, 1975, for Section 404 jurisdiction over *all* waters of the United States. These phase-in dates may be found in the July 19, 1977, publication of 33 CFR Part 323 (42 FR 37122). The last phase of the jurisdictional expansion took effect on July 1, 1977.

(b) Structures or work completed before 18 December 1968 or in waterbodies over which the District Engineer was not asserting jurisdiction at the time the activity occurred provided, in both instances, there is no interference with navigation.

§ 330.4 Nationwide permits for discharges into certain waters.

(a) *Authorized discharges.* Discharges of dredge or fill material into the following waters of the United States are hereby permitted provided the conditions listed in paragraph (b) of this section are met:

(1) Non-tidal rivers, streams and their lakes and impoundments, including adjacent wetlands, that are located above the headwaters.

(2) Other non-tidal waters of the United States (see 33 CFR 323.2(a)(3)) that are not part of a surface tributary system to interstate waters or navigable waters of the United States.

(b) *Conditions.* The following special conditions must be followed in order for the nationwide permits identified in paragraph (a) of this section to be valid:

(1) That the discharge will not be located in the proximity of a public water supply intake;

(2) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species;

(3) That the discharge will consist of suitable material free from toxic pollutants in toxic amounts;

(4) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution;

(5) That the discharge will not occur in a component of the National Wild and Scenic River System.

§ 330.5 Nationwide permits for specific activities.

(a) *Authorized activities.* The following activities are hereby permitted provided the conditions specified in this paragraph and listed in paragraph (b) of this section are met:

(1) The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the US Coast Guard (33 CFR Part 66, Subchapter C).

(2) Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized (see 33 CFR 322.4(g)).

(3) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or of any currently serviceable structure constructed prior to the requirement for authorization; provided such repair, rehabilitation, or replacement does not result in a deviation from the plans of the original structure, and further provided that the structure to be maintained has not been put to uses differing from uses specified for it in any permit authorizing its original construction.

(4) Fish and wildlife harvesting devices and activities such as pound nets, crab traps, eel pots, lobster traps, duck blinds, clam and oyster digging.

(5) Staff gages, tide gages, water recording devices, water quality testing and improvement devices, and similar scientific structures.

(6) Survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes.

(7) Outfall structures and associated intake structures [1] where the effluent from that outfall has been permitted under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act) (see 40 CFR Part 122) provided that the individual and cumulative adverse environmental effects of the structure itself are minimal.

(8) Structures for the exploration, production, and transport of oil, gas, and minerals on the outer continental shelf within areas leased for such purposes by the Department of Interior, Bureau of Land Management, provided those structures are not placed within the limits of any designated shipping safety fairway or traffic separation scheme (where such limits have not been designated or where changes are anticipated, District Engineers will consider recommending the discretionary authority provided by § 330.7).

(9) Structures placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established by the US Coast Guard.

(10) Non-commercial, single-boat, mooring buoys.

(11) Temporary buoys and markers placed for recreational use such as water skiing and boat racing provided that the buoy or marker is removed within six months of its installation.

(12) Discharge of material for backfill or bedding for utility lines including outfall and intake structures provided there is no change in preconstruction bottom contours (excess material must be removed to an upland disposal area). A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquifiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messges, and radio and television communication. (The utility line and outfall and intake structures will require a Section 10 permit if in navigable waters of the United States.) (See 33 CFR 322. See also nationwide permit (7) above.)

[1] Intake structures per se are not included—only those directly associated with an outfall structure covered by this nationwide permit.

(13) Bank stabilization activities provided:

(i) The bank stabilization activity is less than 500 feet in length;

(ii) The activity is necessary for erosion prevention;

(iii) The activity is limited to less than an averagy of one cubic yard per running foot placed along the bank within waters of the United States;

(iv) No material is placed in excess of the minimum needed for erosion protection;

(v) No material is placed in any wetland area;

(vi) No material is placed in any location or in any manner so as to impair surface water flow into or out of any wetland area; and

(vii) Only clean material free of waste metal products, organic materials, unsightly debris, etc. is used.

(14) Minor road crossing fills including all attendant features both temporary and permanent that are part of a single and complete project for crossing of a non-tidal waterbody, provided that the crossing is culverted or bridged to prevent the restriction of expected high flows [2] and provided further that discharges into any wetlands adjacent to the waterbody do not extend beyond 100 feet on either side of the ordinary high water mark of that waterbody. A "minor road crossing fill" is defined as a crossing that involves the discharges of less than 200 cubic yards of fill material below the plane of ordinary high water. The crossing will require a permit from the US Coast Guard if located in navigable waters of the United States (see 33 USC 301). Some road fills may be eligible for an exemption from the need for a Section 404 permit altogether (see 33 CFR 323.4).

(15) Fill placed incidental to the construction of bridges across navigable waters of the United States including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such fill has been authorized by the US Coast Guard under Section 9 of the River and Harbor Act of 1899 as part of the bridge permit. Causeways and approach fills are not included in this nationwide permit and will require an individual or regional Section 404 permit.

(16) Return water [3] from a contained dredged material disposal area provided the State has issued a certification under Section 401 of the Clean Water Act or has waived its right to do so (see 33 CFR 325.2(b)(1)). The dredging itself requires a Section 10 permit if located in navigable waters of the United States.

(17) Fills associated with small hydropower projects at existing reservoirs where the project which includes the fill is licensed by the Department of Energy under the Federal Power Act of 1920, as amended; has a total generating capacity of not more than 1500 kw (2,000 horsepower); qualifies for the short-form licensing procedures of the Department of Energy (see 18 CFR 4.61); and the individual and cumulative adverse effects on the environment are minimal.

(18) Discharges of dredged or fill material into waters of the United States that do not exceed five cubic yards as part of a single and complete project provided no material is placed in wetlands.[4]

(19) Dredging of no more than five cubic yards from navigable waters of the United States as part of a single and complete project.[4]

(20) Structures, work and discharges for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan provided the Regional Response Team which is activated under the Plan concurs with the proposed containment and cleanup action.

(21) Structures, work, and discharges associated with surface coal mining activities provided they are authorized by the Department of the Interior, Office of Surface Mines, or by states with approved programs under Title V of the Surface Mining Control and Reclamation Act of 1977; the appropriate District Engineer is given the opportunity to review the Title V permit application and all relevant Office of Surface Mines or State (as the case may be) documentation prior to any decision on that application; and the District Engineer makes a determination that the individual and cumulative adverse effects on the environment from such structures, work, or discharges are minimal.

(22) Minor work or temporary structures required for the removal of

[2] District Engineers are authorized, where regional conditions indicate the need, to define the term "expected high flows" for the purpose of establishing applicability of this nationwide permit.

[3] The return water or runoff from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(j) even though the disposal itself occurs on the upland and thus does not require a Section 404 permit. This nationwide permit satisfies the technical requirement for a Section 404 for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures.

[4] These nationwide permits are designed for very minor dredge and fill activities such as the removal of a small shoal in a boat slip; they cannot be used for piecemeal dredge and fill activities.

wrecked, abandoned, or disabled vessels or the removal of obstructions to navigation.

(23) Activities, work, and discharges undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

(i) That agency or department has determined, pursuant to the CEQ Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment and the Corps district office has been furnished notice of the agency or department's application of the categorical exclusion; or

(ii) That agency or department has otherwise determined that the activity, work, or discharge will individually and cumulatively cause no in order for the nationwide permits identified in paragraph (a) of this section to more than minimal adverse environmental effects, and the Corps district office has been notified of such determination by the agency; and

(iii) The Corps district office fails to object to the application of the categorical exclusion or the determination of minimal adverse environmental effects within fifteen working days of being provided such notice or determination.

(24) Any activity permitted by a State administering its own permit program for the discharge of dredged or fill material authorized at 33 U.S.C. 1344(g)–(1) shall be permitted pursuant to Section 10 of the River and Harbor Act of 1899 (33 USC 403).

(b) *Conditions.* The following special conditions must be followed in order for the nationwide permits identified in paragraph (a) of this section to be valid:

(1) That any discharge of dredged or fill material will not occur in the proximity of a public water supply intake;

(2) That any discharge of dredged or fill material will not occur in areas of concentrated shellfish production;

(3) That the activity will not destroy a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species;

(4) That the activity will not disrupt the movement of those species of aquatic life indigenous to the waterbody (unless the primary purpose of the fill is to impound water);

(5) That any discharge of dredged or fill material will consist of suitable material free from toxic pollutants (See Section 307 of Clean Water Act) in toxic amounts;

(6) That any structure or fill authorized will be properly maintained;

(7) That the activity will not occur in a component of the National Wild and Scenic River System; and

(8) That the activity will not cause an unacceptable interference with navigation.

§ 330.6 Management practices.

In addition to the conditions specified in §§ 330.4 and 330.5, the following management practices shall be followed, to the maximum extent practicable, in the discharge of dredged or fill material under nationwide pemits in order to minimize the adverse effects of these discharges on the aquatic environment. Failure to comply with these practices may be cause for the District Engineer to recommend discretionary authority to regulate the activity on an individual or regional basis pursuant to § 330.7.

(a) Discharges of dredged or fill material into waters of the United States shall be avoided or minimized through the use of other practical alternatives.

(b) Discharges in spawning areas during spawning seasons shall be avoided.

(c) Discharges shall not restrict or impede the movement of aquatic species indigenous to the waters or the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

(d) If the discharge creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, shall be minimized.

(e) Discharge in wetlands areas shall be avoided.

(f) Heavy equipment working in wetlands shall be placed on mats.

(g) Discharges into breeding areas for migratory waterfowl shall be avoided.

(h) All temporary fills shall be removed in their entirety.

§ 330.7 Discretionary authority to require individual or regional permits.

In those instances where the District Engineer determines that the aquatic environment is not adequately protected by a nationwide permit, he may recommmend through the Division Engineer to the Chief of Engineers cancellation of the nationwide permit or permits which apply to future activities of a specific nature or those which apply in a specific waterbody.[5] Once he has obtained approval from the Chief of Engineers and announced the decision to persons affected by the action, he will regulate the activities by processing applications for individual or regional permits pursuant to 33 CFR Part 325. Where time is of the essence, District Engineers may telephonically recommend cancellations through the Division Engineer to the Chief of Engineers (DAEN–CWO–N). If the Chief of Engineers concurs, he may verbally authorize the cancellation by the District Engineer. Both actions will be followed by written confirmation. District Engineers are authorized to reinstate nationwide permit coverage; notification will be provided to affected persons and to the Chief of Engineers (DAEN–CWO–N). Additionally, the District Engineer may prescribe criteria to be followed for the protection of navigaton in order to comply with § 330.5(b)(8).

The nationwide permit for that activity is not valid unless the prescribed criteria are met.

§ 330.8 Expiration of nationwide permits.

The Chief of Engineers will review nationwide permits at least every five years. Based on this review, which will include public notice and opportunity for public hearing through publication in the **Federal Register**, he will either modify, reissue (extend) or revoke the permits. If a nationwide permit is not modified or reissued within five years of publication in the **Federal Register**, it automatically expires and becomes null and void.

[FR Doc. 80-28861 Filed 9-18-80; 8:45 am]
BILLING CODE 3710-92-M

[5] Since nationwide permits are issued by the Chief of Engineers (following notice and opportunity for hearing through publication in the **Federal Register**), it is essential that he maintain control and consistency in the management of these permits. However, because of unusual local situations, there must be flexibility for District Engineers to regulate the activity through an individual or regional permit process. Some situations will demand an immediate decision from the Office of the Chief of Engineers on the cancellation of nationwide permit coverage; this has been provided for by provision for telephonic reporting and approval.

Reader Aids

Federal Register

Vol. 45, No. 184

Friday, September 19, 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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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
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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.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

55422 8–20–80 / Approval and promulgation of North Carolina implementation plans; Duke-CP&L variance

FEDERAL COMMUNICATIONS COMMISSION

53818 8–13–80 / TV table of assignments; Riverside and Santa Ana, Calif.

53821 8–13–80 / FM table of assignments; Lockhart, Tex.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

17870 3–19–80 / HEW day care regulations

INTERIOR DEPARTMENT

Fish and Wildlife Service—

55654 8–20–80 / Beaver Dam Slope population of the desert tortoise in Utah; listing as threatened with critical habitat

NUCLEAR REGULATORY COMMISSION

55419 8–20–80 / Deletion of source material medicinals from the general license for small quantities of source material

PENSION BENEFIT GUARANTY CORPORATION

55636 8–20–80 / Reporting and notification requirements for reportable events

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

48609 7–21–80 / Recordkeeping requirements; cigarettes distribution

Rules Going Into Effect Saturday, September 20, 1980

COST ACCOUNTING STANDARDS BOARD

31929 5–15–80 / Allocation of direct and indirect costs; defense contracts; cost accounting standard

Rules Going Into Effect Sunday, September 21, 1980

POSTAL SERVICE

56054 8–22–80 / Handling of mailable matter not bearing postage placed in private mail receptacles or in the mails

56057 8–22–80 / Change of address orders, dual addresses, ZIP Code

List of Public Laws

Last Listing September 17, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 607 / Pub. L. 96–352 Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980. (Sep. 17, 1980; 94 Stat. 1162) Price $1.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

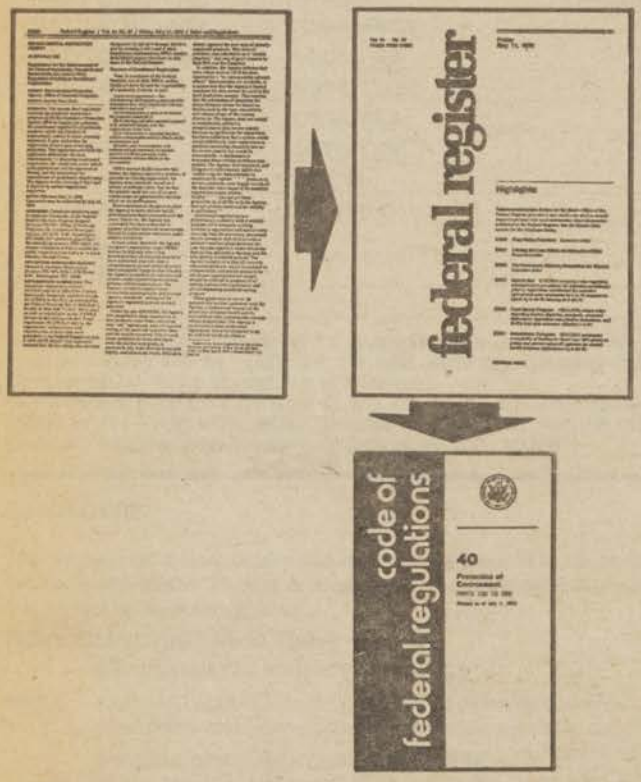
WHEN: October 17 and 31; November 14 and 21; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**



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