AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-24-80
Vol. 45 No. 208
Pages 70427-70734

federal register

Friday
October 24, 1980

Highlights

Seminar on Principles of Regulations Writing—For details on seminar in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

70473 **School Nutrition Programs** USDA/FNS requires State agencies to inform the Food and Nutrition Service Regional Office when they become aware of suspected fraud or other criminal acts; comments by 12-23-80

70522 **Public Assistance Programs** HHS/SSA proposes to amend rules for quality control review of sample cases under the aid to families with dependent children and adult assistance programs; comments by 12-23-80

70527 **Food Relief Programs** USDA/FNS announces plans to distribute fiscal year 1981 program (food) monies to State agencies participating in Special Supplemental Food Programs for Women, Infants and Children; effective 10-1-80; comments by 12-23-80

70516 **Medicaid** HHS/HCFA amends Medicaid Quality Control regulations by revising time frames for States to complete reviews and submit certain reports; comments by 12-23-80

70666 **Minimum Wages** Labor/ESA releases minimum wages for Federal and federally assisted construction workers (Part II of this issue)

CONTINUED INSIDE

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Highlights

70429 **Energy** DOE formulates general policy establishing prices or charges for materials and services sold by DOE; effective 11-24-80

70621 **Immigration** State publishes guidelines for notification to the United States Department of State of request for asylum

70431 **Air Rates and Fares** CAB publishes regulation regarding domestic passenger fare flexibility; adopted 10-21-80

70478 **Income Tax** Treasury/IRS proposes reporting requirements for certain grantor trusts; comments by 12-23-80

70475 **Energy Conversion** Commerce/NOAA is preparing licensing and other regulations for ocean thermal energy conversion facilities and plantships; applications for financial compensation 11-24-80

70712 **Rulemaking Calendar** DOE/FERC publishes calendar of pending informal rulemaking of general applicability for 10-1 to 12-31-80 (Part IV of this issue)

70444 **Food Additives** HHS/FDA adds 2-(2'-hydroxy-5'-methylphenyl) benzotriazole as antioxidant and/or stabilizer in polycarbonate resins intended for food-contact use; effective 10-24-80, objections by 11-24-80

70728 **Hazardous Materials** EPA requires submission of notice of manufacture or importation of polybrominated biphenyls and tris; effective 11-24-80 (Part V of this issue)

70469 **Fishing Vessels** Commerce/NOAA publishes regulations regarding Fishermen's Protective Act procedures provision for fees; effective 9-30-80

70574 **Prescription Drugs** HHS/HCFA publishes Pharmaceutical Reimbursement Board final maximum allowable cost determinations

70530-70535 **Data Processing** Commerce/NBS is authorized to establish uniform Federal automatic data processing standards; provisions of standard effective 4-24-81

Privacy Act Documents

700702 FERC

70623 **Sunshine Act Documents**

Separate Parts of This Issue

70666 **Part II, Labor/ESA**
70702 **Part III, DOE/FERC**
70712 **Part IV, DOE/FERC**
70728 **Part V, EPA**

Contents

Federal Register
Vol. 45, No. 208
Friday, October 24, 1980

Agricultural Marketing Service
RULES
70427 Lemons grown in Ariz. and Calif.

Agricultural Stabilization and Conservation Service
NOTICES
Feed grain donations:
70527 Fort Belknap Assiniboine and Gros Ventre Indian Tribes, Mont.

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service.
PROPOSED RULES
70471 4–H Club name and emblem; use and clarification, etc.
NOTICES
Meetings:
70528 Child Nutrition National Advisory Council

Animal and Plant Health Inspection Service
RULES
Animal and poultry quarantine:
70429 Exotic Newcastle disease

Army Department
See also Engineers Corps.
NOTICES
Meetings:
70538 Coastal Engineering Research Board
70538 Medical Research and Development Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
70538 Procurement list, 1980; additions and deletions

Bonneville Power Administration
NOTICES
70541 Power rates, wholesale; inquiry; extension of time

Canada and United States-International Joint Commission
NOTICES
70599 Skagit River level raising at International Boundary; request of British Columbia Province, invitation for statements

Civil Aeronautics Board
RULES
70431 Domestic passenger fare flexibility; policy statement
NOTICES
Hearings, etc.:
70528 Hughes Airwest et al.

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; Patent and Trademark Office.
NOTICES
Committees; establishment, renewals, terminations, etc.:
70537 Coastal Zone Management Advisory Committee
Environmental statements; availability, etc.:
70529 World Exposition of 1984, New Orleans, La.

Commodity Futures Trading Commission
RULES
70441 Conduct standards; financial reporting requirements and certification system

Customs Service
PROPOSED RULES
Personal declarations and exemptions:
70476 Crewmembers; consideration as returning residents
NOTICES
Country of origin marking:
70622 Merchandise imported from China and Taiwan

Defense Department
See Army Department; Engineers Corps; Navy Department.

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
70542 Air Products & Chemicals, Inc.
70542 Phelps Dodge Corp.

Employment and Training Administration
NOTICES
70599 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
PROPOSED RULES
70479 Federal Service contract labor standards; extension of comments period
NOTICES
70666 Mininum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Colo., Fla., Ga., La., Md., Minn., N.Y., Ohio, Okla., Pa., P.R., Tenn., Tex., Va., and W. Va.)

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
RULES
70429 Pricing policy; materials and services sold by DOE

NOTICES
Environmental statements; availability, etc.:
70439 Waste isolation pilot plan
International atomic energy agreements; civil uses; subsequent arrangements:
70541 European Atomic Energy Community et al.

Engineers Corps
PROPOSED RULES
Navigation regulations:
70511 Okeechobee Waterway locks et al., Fla.
NOTICES
Meetings:
70539 Waterways study, national

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
70448 California
70449 Illinois
Toxic substances:
70728 Polybrominated biphenyls (PBBs) and tris (2,3-dibromopropyl) phosphate; importation or manufacture notice requirement
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
70513 Rhode Island
Air quality planning purposes; designation of areas:
70513 New York
NOTICES
Air quality implementation plans; approval and promulgation:
70557 Prevention of significant air quality deterioration (PSD); extension of permit; Pittston Co.
Environmental statements; availability, etc.:
70566 Agency statements; weekly receipts
Pesticide programs:
70561 Federal certification program; private applicators, recertification criteria; policy statement
Pesticides; emergency exemption applications:
70560 Azinphos-methyl
70561 Botran
70559 Dinoseb
70560 Ridomil (2 documents)
Pesticides; experimental use permit applications:
70567 FMC Corp. et al.; correction
Toxic and hazardous substances control:
70557 Premanufacture notice; review period extended
Water pollution control:
70564 Dredged and fill discharge program, jurisdiction; special cases, list

Equal Employment Opportunity Commission
NOTICES
70623 Meetings; Sunshine Act

Federal Communications Commission
RULES
Common carrier services:
70468 Domestic public and mobile radio services; ownership amendments cut-off rules exemption clarification; correction
Television broadcasting:
70468 Cable television systems; carriage of specialty stations; proceeding terminated
NOTICES
Hearings, etc.:
70567 RJN Broadcasting, Inc., et al.
70568 Senior Executive Service Performance Review Board; membership

Federal Deposit Insurance Corporation
NOTICES
70623 Meetings; Sunshine Act

Federal Election Commission
PROPOSED RULES
70474 Advisory opinions; withdrawal procedures
NOTICES
Rulemaking petitions; availability, etc.:
70568 Democratic National Committee et al.

Federal Emergency Management Agency
RULES
Flood elevation determinations:
70452 Alabama et al.
Flood insurance; communities eligible for sale:
70451 Florida et al.

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities:
70476 Annual reports (Form No. 1, classes A and B); elimination of unnecessary data requirements; extension of time
Nondiscrimination:
70476 Outer Continental Shelf Lands Act Amendments of 1978, affirmative action responsibilities; advance notices, extension of time
70712 Regulatory agenda
NOTICES
Hearings, etc.:
70543 Cleveland Electric Illuminating Co.
70543 Commonwealth Edison Co.
70543 Consumers Power Co.
70544 Continental Hydro Corp.
70544 Energy Terminal Services Corp. et al.
70545 Keating, Joseph M.
70545, 70546 Kentucky Utilities Co. (6 documents)
70547 Minnesota Power & Light Co.
70547 New York State Electric & Gas Corp.
70547 Pacific Gas & Electric Co.
70547, 70548 Southern California Edison Co. (2 documents)
70548 Super America of Flathead County
70548 United Gas Pipe Line Co.
70549 Western States Energy & Resources, Inc.
70549 Zanni's Chevron Service
70702 Privacy Act; systems of records

Federal Home Loan Bank Board
NOTICES
70623 Meetings; Sunshine Act (2 documents)

Federal Maritime Commission
NOTICES
70624 Meetings; Sunshine Act

Federal Prevailing Rate Advisory Committee
NOTICES
70568 Meetings

Federal Reserve System
NOTICES
Applications, etc.:
70569 CAARGO Financial Corp.

70570 DeSoto Banking Corp.
70570 East Texas Bancorporation, Inc.
70569 First Midwest Bancorp, Inc.
70570 First Oklahoma National Corp.
70570 Guaranty Securities Corp.
70570 Harris County Bankshares, Inc.
70571 Mahaska Investment Co.
70571 Twin Cedars Bancorp.
70571 Western Bancorp, Inc.
70571 Wood & Huston Bancorporation, Inc.
70624 Meetings; Sunshine Act (3 documents)

Federal Trade Commission
NOTICES
70572 Cigarette testing results; tar and nicotine content; correction

Food and Drug Administration
RULES
Food additives:
70444 Polymers; antioxidants and/or stabilizers
PROPOSED RULES
Food additives:
70477 Salts of fatty acids; use as stabilizers in polymers; withdrawn
NOTICES
Food additives, petitions filed or withdrawn:
70573 Calgon Corp.
70573 Dow Chemical Co.
70574 Monsanto Co.
Meetings:
70572 Advisory committees, panels, etc.

Food and Nutrition Service
PROPOSED RULES
Child nutrition programs:
70473 Suspected fraud and criminal acts in school programs; reporting requirements
NOTICES
Child nutrition programs:
70527 Women, infants and children; special supplemental food program; administrative funding formula
Meetings:
70527 Maternal, Infant and Fetal Nutrition Advisory Council

General Services Administration
NOTICES
Public utilities; hearings, etc.; proposed intervention:
70572 California Public Utilities Commission

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

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; Health Resources Administration; Social Security Administration.
NOTICES
Organization, functions and authority delegations:
70584 Social Security Administration

Health Care Financing Administration
PROPOSED RULES
Medicaid:
70516 Quality control; time requirements for reviews, etc.
NOTICES
Drugs, limitations on payment or reimbursement; maximum allowable cost:
70574 Potassium chloride, etc.

Health Resources Administration
NOTICES
Meetings; advisory committees:
70584 November

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
70549–70555 Decisions and orders (3 documents)
Remedial orders:
70556 Objections filed

Immigration and Naturalization Service
RULES
70428 Canadian residents entering U.S. by small craft; inspection procedure liberalization and visit privileges
Organization and functions:
70427 Ajo and Naco, Ariz., Border Patrol substations; redesignation as Border Patrol stations
Transportation line contracts:
70428 Air Florida

Interior Department
See Surface Mining Reclamation and Enforcement Office; Water and Power Resources Service.

Internal Revenue Service
PROPOSED RULES
Income taxes; etc.:
70478 Trusts, grantor; reporting requirements

International Trade Administration
RULES
Countervailing duties:
70442 Float glass from Italy
70443 Tomato products from European communities; revoked
NOTICES
70529 Cheese, quota, foreign government subsidies list
70624 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
70585 Intercorporate hauling operations; intent to engage in
70592–70595 Permanent authority applications (3 documents)
70599 Permanent authority applications; corrections (2 documents)
Railroad car service orders; various companies:
70590 Kansas City Terminal Railway Co.
Railroad services abandonment:
70591 Louisville & Nashville Railroad Co. et al.

Justice Department
See Immigration and Naturalization Service; Prisons Bureau.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Labor Management Relations Office; Mine Safety and Health Administration; Occupational Safety and Health Administration.
NOTICES
Adjustment assistance:
70601 Firestone Tire & Rubber Co.
70602 Michigan Plating & Stamping Co.; correction
70602 Rexnord, Inc., et al.
70605 Wagner Electric Corp.
Meetings:
70599 International Labor Standards Tripartite Advisory Panel

Labor Management Relations Office
RULES
70444 Labor-management reports; definition of "person"

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
70600 Last Try Coal Co.
70600 R & R Coal Co.
70601 Regina Fuel Coal Co.

Minimum Wage Study Commission
NOTICES
70606 Meetings

National Bureau of Standards
NOTICES
Information processing standards, Federal:
70535 COBOL; sort statement; interpretation
70530 FORTRAN
70534 Information interchange; geographic point locations representation
70532 Minimal BASIC

National Council on the Handicapped
NOTICES
70624 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
70469 "Commercial fishing vessel" definition; inclusion of vessels registered under U.S. law and entitled to be licensed or enrolled and licensed for U.S. fisheries
70469 Fees provision; Fishermen's Protective Act
PROPOSED RULES
Fishery conservation and management:
70523 Foreign Fishing; Bering Sea and Aleutian Islands groundfish
70525 Mid-Atlantic Fishery Management Council; mackerel and butterfish; hearings
70525 North Pacific Fishery Management Council; high seas salmon; hearings
70475 Ocean thermal energy conversion; public participation funds; availability
NOTICES
Marine mammal permit applications, etc.:
70537 Baltimore Aquarium, Inc.
70537 Mystic Marinelife Aquarium

Navy Department
NOTICES
Meetings:
70539 Education and Training Advisory Board

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
70473 Hydrogen control in light-water reactor facilities and certain degraded core considerations; correction
70474 Nuclear powerplants; degraded or melted core consideration; design requirements; advance notice; correction
NOTICES
Applications, etc.:
70607 Arkansas Power & Light Co.
70608 Metropolitan Edison Co.; emergency planning session
70708 Northeast Nuclear Energy Co. et al.
70609 Portland General Electric Co. et al. (2 documents)
Meetings:
70606 Reactor Safeguards Advisory Committee
70607 Reactor Safeguards Advisory Committee; rescheduled
70609 Regulatory guides; issuance and availability

Occupational Safety and Health Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
70601 Occupational Safety and Health National Advisory Committee; membership

Patent and Trademark Office
NOTICES
70537 Senior Executive Service Performance Review Board; membership

Personnel Management Office
NOTICES
Educational requirements, minimum:
70610 Industrial hygiene (GS-690 series)

Prisons Bureau
NOTICES
Meetings:
70599 Corrections Advisory Council

Securities and Exchange Commission
NOTICES
Hearings, etc.:
70614 Cash Management Trust of America
70615 Columbia Gas System, Inc., et al.
70620 Tax Deferred Fund, Inc.
70619 Wednesday Alpha Corp.
70625 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
70610 National Association of Securities Dealers, Inc.
70613 New York Stock Exchange, Inc.
70613 Philadelphia Stock Exchange

Social Security Administration
PROPOSED RULES
Public assistance programs:
70522 Quality control system, review completion requirements

State Department
NOTICES
70621 Asylum requests; notification guidelines

Surface Mining Reclamation and Enforcement Office
RULES
Abandoned mine lands reclamation program; plan submissions:
70445 Montana
PROPOSED RULES
Abandoned mine lands reclamation program:
70480 Grants to States; filing of quarterly financial and performance reports and identification of application and reporting forms; hearing cancellation
Abandoned mine lands reclamation program; plan submissions:
70480 Illinois; reopening of comment period
70510 Virginia; hearing cancellation
Permanent program submission; various States:
70481 Utah; partial disapproval

Treasury Department
See Customs Service; Internal Revenue Service.

Wage and Price Stability Council
NOTICES
Meetings:
70538 Price Advisory Committee; date change

Water and Power Resources Service
NOTICES
Contract negotiations:
70584 Buffalo Rapids Irrigation Project, District No. 2, Mont.

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Food and Nutrition Service—
70527 Maternal, Infant and Fetal Nutrition Advisory Council, 11-17 through 11-19-80
Office of the Secretary—
70528 Child Nutrition National Advisory Council, 11-6 through 11-8-80

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
70475 Ocean Thermal Energy Conversion, 10-30-80

DEFENSE DEPARTMENT
Army Department—
70538 Coastal Engineering Research Board, 11-12 through 11-14-80
70538 U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects, 11-18-80
Engineers Corp.—
70539 National Waterways Study, 11-13, 11-18, and 11-19-80
Navy Department—
70539 Academic Advisory Board to the Superintendent United States Naval Academy, Secretary of the Navy's Advisory Board on Education and Training Subcommittee, 11-21-80
70568 Federal Prevailing Rate Advisory Committee Meetings, 11-6, 11-13, and 11-20-80

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
70572 Obstetrics-Gynecology and Radiologic Device Panel, Obstetrics-Gynecology device section, 11-10-80
Health Resources Administration—
70584 Health Professions Education National Advisory Council, 11-17 and 11-18-80

JUSTICE DEPARTMENT
Bureau of Prisons Office—
70599 Advisory Corrections Council, 11-19 and 11-20-80

MINIMUM WAGE STUDY COMMISSION
70606 Meeting, 11-13-80

NUCLEAR REGULATORY COMMISSION
70606 Reactor Safeguards Advisory Committee, various October through January

CHANGED MEETING

NUCLEAR REGULATORY COMMISSION
70607 Reactor Safeguards Advisory Committee, Babcock and Wilcox Water Reactors Subcommittee, 10-31 changed to 10-30-80

CANCELLED MEETING

COUNCIL ON WAGE AND PRICE STABILITY
70538 Price Advisory Council, 10-29-80

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
70525 Mid-Atlantic Fishery Management Council, 11-10, 11-11 and 11-13-80
70525 North Pacific Fishery Management Council, High Seas Salmon Fishery Management Plan, 11-13, 11-14, 12-6 and 12-9-80

CANCELLED HEARINGS

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office—
70510 Abandoned Mine Lands Reclamation Program, 10-29-80
70480 Abandoned Mine Lands Reclamation Program, 11-12-80

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
910 70427
Proposed Rules:
8 70471
210 70473
215 70473
220 70473
230 70473

8 CFR
100 70427
235 70428
238 70428

9 CFR
82 70429

10 CFR
1009 70429
Proposed Rules:
50 (2 documents) 70473, 70474

11 CFR
Proposed Rules:
112 70474

14 CFR
399 70431

15 CFR
Proposed Rules:
1001 70475

17 CFR
140 70441

18 CFR
Proposed Rules:
Ch. I 70476
141 70476

19 CFR
355 (2 documents) 70442, 70443
Proposed Rules:
148 70476

21 CFR
178 70444
Proposed Rules:
178 70477

26 CFR
Proposed Rules:
1 70478
301 70478

29 CFR
401 70444
Proposed Rules:
4 70479

30 CFR
926 70445
Proposed Rules:
884 70510
886 70480
913 70480
944 70481
946 70510

33 CFR
Proposed Rules:
207 70511

40 CFR
52 (2 documents) 70448
713 70728
Proposed Rules:
52 70513
81 70514

42 CFR
Proposed Rules:
431 70516

44 CFR
64 70451
67 70452

45 CFR
Proposed Rules:
205 70521

47 CFR
21 70468
76 70468

50 CFR
258 (2 documents) 70469
Proposed Rules:
611 70523
656 70525
657 70525
674 70525

Rules and Regulations

Federal Register
Vol. 45, No. 208
Friday, October 24, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 276; Lemon Reg. 275, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 26–November 1, 1980, and increases the quantity of such lemons that may be so shipped during the period October 19–25. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective October 26, 1980, and the amendment is effective for the period October 19–25, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are 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 available 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 1980–81 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 October 21, 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 weeks. 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 and amendment are based and when the actions 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), and the amendment relieves restrictions on the handling of lemons. 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 times.

1. Section 910.576 is added as follows:

§ 910.576 Lemon Regulation 276.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 26, 1980, through November 1, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defiend in the marketing order.

2. Paragraph (a) of § 910.575 Lemon Regulation 275 (45 FR 68912) is amended to read as follows:

§ 910.575 Lemon Regulation 275.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 19, 1980, through October 25, 1980, is established at 210,000 cartons.

* * * * *

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

Dated: October 22, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service

[FR Doc. 80-33466 Filed 10-23-80; 11:55 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization-Field Service: Redesignation of Ajo, Ariz., and Naco, Ariz. Sub-Stations as Border Patrol Stations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This rule redesignates the Ajo, and Naco, Ariz. border patrol substations as border patrol stations.

EFFECTIVE DATE: November 24, 1980.

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

SUPPLEMENTARY INFORMATION: 8 CFR 100.2 sets forth the delegation of authority from the Attorney General to the Commissioner of the Immigration and Naturalization Service relating to the administration of the Service, including the designation of Border Patrol sector headquarters, stations, and sub-stations necessary to enforce the Immigration and Nationality Act and all other laws relating to immigration and naturalization. Consistent with such authority, the former Border Patrol substations at Ajo and Naco, Arizona are re-designated as Border Patrol stations within the Tucson, Arizona Border Patrol Sector Number 14. This rule is published to notify the public of this change in the Service's organizational structure. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking is not required because the amendment merely up-dates the Service's organization table.

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

PART 100—STATEMENT OF ORGANIZATION

§ 100.4 [Amended]

In 100.4 (d), "Sector No. 14—Tucson, Arizona" is reviewed to read as follows:

Sector No. 14—Tucson, Ariz.

Ajo, Ariz.
Casa Grande, Ariz.
Douglas, Ariz.
Gila Bend, Ariz.
Naco, Ariz.
Nogales, Ariz.
Phoenix, Ariz.
Tucson, Ariz.
Willcox, Ariz.

* * * * *

(Sec. 103, 8 U.S.C. 1103)

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-33274 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

---

8 CFR Part 235

Inspection of Persons Applying for Admission; Canadian Residents Entering the United States by Small Craft

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule liberalizes the inspection procedure for Canadian residents who enter the United States by small craft at Puget Sound during the navigation season. It also extends visit privileges in the United States from 24 hours to 72 hours and enlarges the areas for such visits.

EFFECTIVE DATE: November 24, 1980.

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

For specific information: Alvin Braunstein, Immigration Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-2725.

SUPPLEMENTARY INFORMATION: 8 CFR 235.1(e) is revised to include Puget Sound, an inlet of the Pacific Ocean in northwestern Washington, under the Form I-68, Canadian border boat landing procedure. Under this procedure, U.S. citizens, lawful permanent residents of the United States, Canadian nationals and other residents of Canada who enter the United States by small craft may be issued a Form I-68, Canadian Border Boat Landing Card, without application or fee after an initial inspection, and may thereafter enter the United States along the immediate shore area from time to time for the duration of the navigation season without additional inspections. The revision also extends a nonresident alien's authorized visit in the United States from the former 24 hours to 72 hours and also extends the area of such visit from the immediate shore area to nearby shopping areas, nearby residential neighborhoods, and other contiguous areas.

The provision of the Administrative Procedure Act (5 U.S.C. 553) relative to notice of proposed rulemaking is unnecessary because the liberalized rule relieves the former restrictive practices and geographic limitations.

Accordingly, Part 235 of Chapter 1 of Title 8 is amended by revising § 235.1(e) as follows:

PART 235—INSPECTIONS OF PERSONS APPLYING FOR ADMISSION

§ 235.1 [Amended]

* * * * *

(e) *U.S. Citizens, lawful permanent residents of the United States, Canadian nationals, and other residents of Canada having a common nationality with Canadians, entering the United States by Small craft.* Upon being inspected by an immigration officer and found eligible for admission as a citizen of the United States, or found eligible for admission as a lawful permanent resident of the United States, or in the case of a Canadian national or other resident of Canada having a common nationality with Canadians being found eligible for admission as a temporary visitor for pleasure, a person who desires to enter the United States from Canada in a small pleasure craft of less than 5 net tons without merchandise may be issued, without application or fee, Form I-68, Canadian Border Boat Landing Card, and may thereafter enter the United States along with the immediate shore area of the United States on the body of water designated on the Form I-68 from time to time for the duration of that navigation season without further inspection. In the case of a Canadian national or other resident of Canada having a common nationality with Canadians, the Form I-68 shall be valid only for the purpose of visits not to exceed 72 hours and only if the alien will remain in nearby shopping areas, nearby residential neighborhoods, or other similar areas adjacent to the immediate shore area of the United States. If the bearer of Form I-68 seeks to enter the United States by means other than small craft of less than 5 net tons without merchandise, or if he or she seeks to enter the United States for other purposes, or if he or she is an alien, other than a lawful permanent resident alien of the United States, and intends to proceed beyond an area adjacent to the immediate shore area of the United States, or remains in the United States longer than 72 hours, he or she must apply for admission at a United States port of entry.

* * * * *

(Sec. 103 and 235, 8 U.S.C. 1103 and 1225)

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization Service.

[FR Doc. 80-33275 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

---

8 CFR Part 238

Contracts With Transportation Lines; Air Florida

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

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

EFFECTIVE DATE: October 8, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536—Telephone: (202) 633-3048.

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

The Commissioner of Immigration and Naturalization Service entered into agreement with the following named carrier on the date indicated to guarantee the passage through the United States of aliens in immediate and continuous transit destined to foreign countries under section 238(d) of the Immigration and Nationality Act and 8 CFR: Air Florida.

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

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

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

* * * * *

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

Dated: October 20, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-23276 Filed 10-23-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Marion County and a portion of Volusia County in Florida, and a portion of Harris County in Texas, because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Marion County, Florida, on October 13, 1980, in Volusia County, Florida, on October 7, 1980, and in Harris County, Texas, on October 3, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected areas.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Marion County and a portion of Volusia County in Florida, and a portion of Harris County in Texas, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3 (a)(1)(i), (a)(1)(iii), and (a)(3)(i) are added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *Florida.* (i) The premises of Ocala Pet Center (Gary Fielder), 161 Northwest 59th Court, Ocala, Marion County.

* * * * *

(iii) The premises of Reef Imports (Garald Smith), Tomoka Farms, Halifax Drive, Volusia County.

* * * * *

(3) *Texas.* (i) The premises of Sam T. Wisialowski, 10206 Golden Sunshine Street, Houston, Harris County.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

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

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 20th day of October, 1980.

Pierre A. Chaloux,

Deputy Administrator Veterinary Service.

[FR Doc. 80-33170 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Office of the Controller

10 CFR Part 1009

Pricing Policy: General Policy for Pricing and Charging for Materials and Services Sold by the Department of Energy

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This regulation formulated a general policy for establishing prices or charges for materials and services sold by the Department of Energy (DOE). This regulation is intended to apply to materials and services for which prices and charges are not otherwise provided for by statute, Executive order, or regulation. This regulation is published under the authority of Section 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. (42 U.S.C. 7254 et seq.))

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth E. Cohen, Office of General Counsel, Room 6A-171, Mail Station 6A-152, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-8618.

Mr. Lawrence M. Pope, Chief, Product Accounting and Pricing Branch, Office of Finance and Accounting, Room GB-215, Mail Station 4A-139, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-4862.

Mr. Joseph P. Muskey, Product Accounting and Pricing Branch, Office

of Finance and Accounting, Room GB-215, Mail Station, 4A-139, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-4862).

SUPPLEMENTARY INFORMATION: On July 29, 1980 DOE issued a proposed rule, 45 FR 50355, formulating a general policy for establishing prices or charges for materials and services sold by DOE. Having received no comments, DOE has determined to adopt the rule as proposed.

The general pricing policy of the Department is to establish prices or charges which recover the full cost to the Federal Government for materials and services sold.

The intent of this regulation is to provide uniform criteria for pricing materials and services covered by this regulation. The implementation of the criteria will be reflected in price and charge lists that can be obtained from the DOE office providing the material or service, or from the responsible program office.

This regulation applies to materials and services for which prices and charges are not otherwise provided for by statute, Executive Order, or regulation. The regulation does not apply to DOE's prices and charges for materials and services related to DOE's principal sources of revenue, such as from sales of uranium enrichment services, sales by power marketing activities, or sales from the Naval Petroleum and Oil Shale Reserves. Instead, this regulation pertains to the sale of materials and services generating a lesser volume of revenue, such as sales of reactor materials, and sales of stable isotopes and radioisotopes. Most of these materials and services are sold under the authority of the Atomic Energy Act of 1954, as amended. (42 U.S.C. 2011 et seq.).

In consideration of the foregoing, Title 10 of the Code of Federal Regulations is amended by establishing Part 1009 as set forth below.

Issued in Washington, D.C. October 16, 1980.

P. Marshall Ryan,

Controller.

10 CFR Chapter X is amended by adding a new Part 1009, reading as follows:

PART 1009—GENERAL POLICY FOR PRICING AND CHARGING FOR MATERIALS AND SERVICES SOLD BY DOE

Sec.
1009.1 Purpose and scope.
1009.2 Definitions.
1009.3 Policy.
1009.4 Exclusions.
1009.5 Supersessions.
1009.6 Dissemination of prices and charges.

Authority: Sec. 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7254)). Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) "User Fee Statue", 31 U.S.C. 483a. 42 U.S.C. 2111, 2112 and 2201.

§ 1009.1 Purpose and scope.

(a) This part establishes Department of Energy policy for establishing prices and charges for Department materials and services sold to organizations and persons outside the Federal Government.

(b) This part applies to all elements of the Department except the Federal Energy Regulatory Commission.

§ 1009.2 Definitions.

For the purposes of this regulation:

(a) "Allocable Cost" means a cost allocable to a particular cost objective (i.e., a specific function, project, process, or organization) if the costs incurred are chargeable or assignable to such cost objectives in accordance with the relative benefits received or other equitable relationships. Subject to the foregoing, a cost is allocable if: (1) it is incurred solely for materials or services sold; (2) it benefits both the customer and the Department in proportions that can be approximated through use of reasonable methods, or (3) it is necessary to the overall operation of the Department and is deemed to be assignable in part to materials or services sold.

(b) "Byproduct Material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(c) "Charges" means an accumulation of job related costs for materials and services sold by the Department.

(d) "Commerical price" means the price that a willing buyer is currently paying or would pay a willing seller for materials and services in the market.

(e) "Direct cost" is any cost which can be identified specifically with a particular final cost objective.

(f) "Full cost" includes all direct costs and all allocable costs of producing the material or providing the service consistent with generally accepted accounting principles. Direct costs and allocable costs may include, but are not limited to, the following cost elements:

(1) Direct labor.

(2) Personnel fringe benefits.

(3) Direct materials.

(4) Other direct costs.

(5) Processing materials and chemicals.

(6) Power and other utilities.

(7) Maintenance.

(8) Indirect cost, i.e., common costs which cannot be directly assigned to specific cost objectives and are therefore allocated to cost objectives in a systematic cost allocation process.

(9) Depreciation which includes depreciation costs that are directly associated with facilities and equipment utilized, and allocated depreciation costs for support and general facilities and equipment.

(10) Added factor includes general and administrative costs and other support costs that are incurred for the benefit of the Department, an organizational unit or a material or service as a whole.

(g) "Prices" means the monetary amounts generally established and published for recurring sales of the same materials and services.

(h) "Source Material" means uranium or thorium.

(i) "Special Nuclear Material" means plutonium, uranium enriched in the isotope 233 or in the isotope 235, or any materials artificially enriched by any of the foregoing. Special Nuclear Material does not include source material.

§ 1009.3 Policy.

(a) The Department's price or charge for materials and services sold to persons and organizations outside the Federal Government shall be the Government's full cost for those materials and services, unless otherwise provided in this part.

(b) Exceptions from the Department pricing and charging policy may be authorized in accordance with the following provisions:

(1) Prices and charges for byproduct material sold pursuant to 42 U.S.C. 2111 and 42 U.S.C. 2112 et seq. shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the Department if it is determined that such lower prices and charges (i) will provide reasonable compensation to the Government for such material, (ii) will not discourage the use of or the development of sources of supply independent of the DOE of such material, and (iii) will encourage research and development. In individual cases, if (ii) and (iii) cannot be equally accommodated, greater weight will be given to encouragement of research and development.

(2) Prices and charges for materials and services sold pursuant to 42 U.S.C. 2201 shall be either the full cost recovery price or the commercial price, whichever is higher, except that lower prices and charges may be established by the

Department if it is determined that such lower prices and charges will provide reasonable compensation to the Government and will not discourage the development of sources of supply independent of the DOE of such material.

§ 1009.4 Exclusions.

This part shall not apply when the amount to be priced or charged is otherwise provided for by statute, Executive Order, or regulations. This part does not apply to:

(a) Fees, penalties and fines established by the Economic Regulatory Administration of DOE.

(b) Power marketing and related activities of the Alaska Power Administration, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Power Administration.

(c) Crude oil, natural gas and other petroleum products and services by or from the Naval Petroleum and Oil Shale Reserves.

(d) Uranium enriching services, source material, and special nuclear material.

(e) Requests for information under the Freedom of Information Act and the Privacy Act.

(f) Energy data and information provided by the Energy Information Administration.

(g) Crude oil and related materials and services from the Strategic Petroleum Reserve.

(h) The disposal of excess and surplus property.

(i) Access permits for uranium enrichment technology issued in accordance with 10 CFR 725.

(j) Materials and services provided pursuant to a cooperative agreement, research assistance contract or grant, or made available to a DOE contractor in connection with a contract, the primary purpose of which is to procure materials or services for DOE.

§ 1009.5 Supersessions.

Prices which appear in **Federal Register** Notices previously published by the Department, or its predecessor agencies, for materials and services covered by this rule are hereby superseded.

§ 1009.6 Dissemination of prices and charges.

Current prices and charges for specific materials and services are available from the DOE laboratory or office providing the material or service, or from the responsible program office. If this office cannot be determined, inquiries regarding the appropriate contact office should be addressed to the Office, of Finance and Accounting, Product Accounting and Pricing Branch, Mail Station 4A-139, 1000 Independence Avenue, SW., Washington, D.C. 20585.

[FR Doc. 80-33307 Filed 10-23-80; 8:45 am]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PS-98; Amdt. No. 75; Docket 37982]

Statements of General Policy: Domestic Passenger Fare Flexibility

AGENCY: Civil Aeronautics Board.

ACTION: Interim policy statement.

SUMMARY: The CAB amends its upward flexibility zones within which airlines may set domestic passenger fares between markets in the 48 contiguous States and the District of Columbia with limited risk of suspension by the agency. The revised policy establishes the ceiling of the regulatory no-suspend zone in all markets at the current Standard Industry Fare Level (SIFL) plus $15, plus an additional upward flexibility of 30 percent. This policy responds to criticisms that the current mileage-based fare flexibility is discriminatory either in appearance or fact. It is designed to counteract a bias against short-haul markets that is built into the previous zone of fare flexibility and to ease the transition to the full pricing deregulation that is mandated by the Airline Deregulation Act.

DATES: Adopted: October 21, 1980. Effective: The policy was put into effect September 24, 1980. The amendment of 14 CFR Part 399 is effective October 21, 1980.

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

SUPPLEMENTARY INFORMATION:

Introduction and Background

On April 3, 1980, we issued a notice of rulemaking inviting comments on six options to make domestic passenger fare policies more flexible (PSDR-66; 45 FR 24178; April 9, 1980).

After considering the comments at our May 13, 1980 Sunshine Meeting, we adopted, effective May 14, 1980, the following combination of the proposed options as an interim policy: full downward flexibility in all markets; full upward flexibility for flights up to 200 miles; 50 percent upward flexibility for flights between 201 and 400 miles; 30 percent upward flexibility for flights above 400 miles. The percentages were applied to the Standard Industry Fare Level (SIFL) as defined by section 1002(d) of the Federal Aviation Act. This new flexibility was originally limited to flights within the 48 contiguous States and the District of Columbia (PS-94, 45 FR 40969; June 17, 1980). This policy was later made applicable with minor change to service between the mainland and Puerto Rico/Virgin Islands, Hawaii or Alaska (PS-96, 45 FR 48600; July 21, 1980). Since these markets are all above 400 miles, upward flexibility is 30 percent.

On May 23, 1980, 11 United States Senators filed a Motion for Reconsideration. By PSDR-66A, 45 FR 40994, June 17, 1980, we granted the motion and asked for public comments on our interim fares policy adopted in PS-94, *supra*. Initial comments were due on July 17, 1980, with reply comments due August 1, 1980. On July 21, 1980, the Indianapolis Airport Authority asked for a 30-day extension of the reply comments. By PSDR-66C, 45 FR 50614, July 30, 1980, we granted an extension for reply comments until August 7, 1980. The docket is now properly before us again for consideration.

The Comments

Seventy-four comments were filed in response to the supplemental notice of proposed rulemaking, by members of the U.S. Congress, air carriers, representatives of small communities, airport operators, and others. A list of the commenters with a summary of their arguments is attached. (Attachment A.)

The majority of commenters to the interim policy either opposed any increased upward price flexibility, particularly in short-haul markets, or argued that any upward flexibility granted should be equal in percentage terms across all distances. Unequal percentage flexibility across mileage blocks, it was argued, would lead to discriminatory pricing: short-haul passengers, where flexibility was unlimited or very substantial, would be exposed to exorbitant prices while long-haul passengers remained protected by more stringent regulation. There were more specific proposals. For example, Piedmont Airlines recommended an alternative fare flexibility policy based on the SIFL fare formula plus $20, plus an additional 20 percent upward fare flexibility in all markets. The Indianapolis Airport Authority urged that any upward fare flexibility above 10 percent be offset by a corresponding reduction in off-peak coach fares. Bell Helicopter-Textron recommended an

alternative in markets of over 200 miles based on 10 percent above SIFL, increased by increments of 5 percent each quarter until January 1, 1983. The New York DOT supported the interim policy.

Discussion

The comments in this docket have, together with over four months' experience, substantially aided us in assessing the merits of current fare flexibility policy. In general, the worst fears of those concerned about potentially disproportionate fare increases with respect to short-haul and small community services have not been realized. For the most part, carriers have exercised their upward flexibility in an across-the-board fashion. (See Table II.) As we expected and hoped, there have been many exceptions to this, but we have not observed market-by-market pricing being directed disproportionately at small communities or short haul markets. As shown in Table I, average coach fares in the 0–200 and 201–400 mileage blocks, even with very high ceilings under current policy, were increased about the same as longer haul fares. Page 1 of the table reflects, for all certificated carriers, an increase of 4.6 percentage points in the average percentage that coach fares exceeded the *DPFI* formula fare in long haul markets since upward flexibility was expanded in May; the comparable figures in the shorter mileage blocks are, 0–200, 5.9%, and 201–400, 4.7%.[1] These variations are not significant. In non-stop markets where carriers actually compete head-to-head, the results are dramatic: while the average excess over the *DPFI* formula has increased 10.3 percentage points since May in the long haul markets, the increase in the 0–200 block is 7.2% and in the 201–400 mileage block 8.0%. In "competitive" markets, thus, there is an inverse relationship between the flexibility provided and carrier pricing actions. Even in non-stop monopoly markets, depicted in p. 3 of Table 1, the increases were roughly similar: 5.7% in long hauls, 5.8% in the 201–400 block, and 6.6% in the 0–200 block. Indeed, short-haul traffic continues to grow while overall domestic travel declines. We understand, however, that many segments of the public view the present mileage-based fare policy as unfair. The Board is concerned that its policies not only be fair, but also appear fair. For this reason, we have decided to modify our policy in a manner which will fully serve our regulatory purposes while reducing public concern about its basic equity.

The comments have not persuaded us to ignore the short-haul/long-haul bias implicit in the SIFL fare formula, as described fully in PSDR–66. Our goal, accordingly, has been to develop a means of converting the historical understatement of short-haul costs with a non-mileage-based fare policy, if practicable. Nor have the parties favoring a general pullback of upward fare flexibility persuaded us. The pertinent considerations in that respect have not changed since we first increased fare flexibility: entry remains substantially deregulated; carriers' profitability levels remain depressed, suggesting an absence of monopoly profits; our reluctance to accept the *Domestic Passenger Fare Investigation* fare curve as a definitive statement of competitive pricing remains unchanged. The problems brought on by soaring fuel costs and adverse traffic forecasts can best be dealt with if competing carriers have ample scope to test the market and experiment with new and innovative pricing policies. This is not to say that we necessarily approve the pricing strategy of every carrier, or accept the inevitability of the substantial industry-wide price increases which followed our actions in relaxing fare regulation. Rather, it means that competition is sufficiently healthy in this industry that consumers are reasonably protected. The marketplace must now play a greater role in setting prices, and carriers should neither be forced nor permitted to rely on outmoded Board imposed fare formulae.

We considered many options in establishing our flexibility zone. For example, we analyzed across-the-board flexibility of 130%, 140% and 150%. (See Tables III and IX.) The first two were lacking because of insufficient flexibility in short haul markets. For substantial bands of mileage, they produce fare ceilings which are below the DPFI cost curve as adjusted to current cost. (See Table III.) Even in mileage blocks where this was not the case, little flexibility would remain to cover variations in carrier costs, differing market characteristics, and our concern that the *DPFI* average cost fare curve may not permit normal coach fares to be sufficiently high to allow the wide array of fares sometimes necessary for maximum exploitation of economies of scale. On the other hand, 150% upward fare flexibility is greater than a majority of the Board feels is consistent at this time with a smooth transition to deregulation in medium and long haul markets. We have, instead, decided to correct for the short-haul-long-haul bias directly, by adjusting for the understatement of the price curve vis-a-vis the cost curve which was initially built into the Phase 9 DPFI fare formula.[2] We have made several calculations to determine the approximate difference, at current cost levels, of the appropriate adjustment to the present terminal charge to establish a proper zone of flexibility.

One approach was to update the DPFI cost formula by applying the cost increase from the initial Phase 9 DPFI fare formula to the cost level as of July 1, 1980—an increase of 2.099. (See Table V). This computation produces a terminal cost estimate of $40.41. A second approach was to compute the cost level at zero miles for the composite of the domestic industry, based on Version Six costing.[3] This was done using calendar year 1977 cost and traffic data, adjusted for cost increases to July 1, 1980 and further adjusted for normal fare traffic. (See Table VI.) This analysis produces a terminal cost estimate of $43.47. A third evaluation was made, utilizing 1979 cost data by equipment type for selected aircraft types (the latest cost data for the type of evaluation using Version Six costing), at an assumed 55 percent load factor. Data were adjusted to costs as at July 1, 1980 and for normal fare traffic. (See Table VII.) This analysis produces a terminal cost estimate of $47.21.

In summary, our evaluation indicates the following:

Basis	Computed terminal cost	Terminal cost July 1, 1980 formula	Adjustment to terminal costs
DPFI cost curve adjusted to 7/1/80	$40.41	$25.92	$14.49
1977 Computed composite carrier adjusted to 7/1/80	43.47	25.92	17.55

[1] It should be noted that page one of Table I includes *all* markets for which local tariffs are published, regardless of the type of service provided (*i.e.*, nonstop, multi-stop or connecting); whereas pages two and three are limited to nonstop markets. Page one is, therefore, not an average of pages two and three. Variations between page one and pages two and three are attributable primarily to the circuitous routings present in page one data which are not reflected in pages two and three.

[2] The cost of coach service per passenger was found to be $19.25 plus 4.95¢ per mile in Phase 9 of the DPFI, while the DPFI fare formula was set with a terminal charge of $12.00—a difference of $7.25 at 1972 cost levels.

[3] Version Six is a multi-element costing methodology developed and used by the Board in developing the initial DPFI Phase 7 fare level costs and the Phase 9 fare structure curve, based on cost inputs by carrier and equipment type. The 1977 cost level was developed on the basis of updated Version Six inputs for composite passenger cost data and was based on actual rather than regulatory load factor and on a flight rather than trip basis.

Basis	Computed terminal cost	Terminal cost July 1, 1980 formula	Adjustment to terminal costs
Selected aircraft 1979 costs adjusted to 7/1/80	47.21	25.92	21.29

Thus, as based on our computations, the appropriate correction is within the range of $14.48 or $21.29. As we are in a period of transition to a free market pricing system, we have conservatively chosen the lower end of the range—$15—as the measure of the bias.

We have decided to premise a revised upward fare flexibility policy on this lump sum. Above it, we will allow 30% upward zone to give the carriers the pricing flexibility that we believe to be compatible with the overall level of industry competition. This new policy will be applicable to all markets within the contiguous States and the District of Columbia, for all mileages, and will be applied uniformly.[4]

We view the new policy as having significant advantages over the previous mileage based system. By maintaining fare regulation in all markets, and providing a uniform standard, it should help provide the appearance of fairness which this cost based policy deserves. Second, it smooths out discontinuities in the old system; no longer will ceilings for 399 mile markets substantially exceed those for 401 miles. Third, the new policy will provide some modest increased flexibility in long-haul markets where, as we have noted, some carriers are pricing at or near ceilings.[5] In PSDR–66, we explained why it is undesirable for the ceiling of a zone of reasonableness to be the focus of carrier pricing. It is by no means clear to us that the marketplace will permit the recent upward march of coach fares to continue, and there is no good reason to permit present levels to be maintained by allowing the SIFL-based ceiling to be used once again as a price leader.

Table III summarizes current policy and those options to which we gave the most serious consideration.

If the new policy were not effective immediately it could be frustrated by carriers filing excessive increases in the interim, which could not be rolled back without a lengthy procedure. The new policy was therefore made effective immediately upon its announcement at the Board's public meeting on September 24, 1980, and we find good cause to make this corresponding amendment of Part 399 effective immediately upon its issuance.

Cohen, Chairman, and Members Bailey, Schaffer, Dalley and Smith concurred. Member Schaffer filed the following statement:

Schaffer, Member, Concurring:

Last May, in my dissent to the Board's interim policy statement on fare flexibility (PS–94, May 14, 1980), I opposed the method chosen by my colleagues to increase the zone of upward fare flexibility—a system that differentiated among markets on the basis of distance. At that time I indicated that I favored an approach that would apply any increase on an across-the-board basis. I was impressed by the fact that numerous commentors, including eleven United States Senators, agreed with me. My view on the issue has not changed.

However, the revised policy responds to many of my criticisms. It places an absolute limit on the upward zone of flexibility available in short-haul markets and it smooths out the very uneven variation inherent in the three-step approach adopted last May. While the actual percentage variation still is greater in short-haul markets, the majority seems to have come a long way in meeting many of my objections.

Under this circumstances, I find that I am able to concur in implementing the approach adopted here which establishes the ceiling at the current SIFL plus $15, plus additional upward flexibility of 30 percent.

Gloria Schaffer.

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

In § 399.32, paragraph (d) is amended to read:

§ 399.32 Zone of limited suspension for domestic passenger fares.

* * * * *

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

(1) For service on the Mainland: Up to 30 percent above the sum of the SIFL plus $15. Each time after September 25, 1980, that the Board adjusts the SIFL for cost increases in accordance with § 399.31(c), it will adjust the $15 figure by the same percentage rounded to the nearest whole dollar. The Board order announcing the adjustment will be published in the **Federal Register** and served on all certificated carriers, and copies will be available through the Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

(2) For service between the Mainland and Puerto Rico, the Virgin Islands, Hawaii, or Alaska: Up to 30 percent above the SIFL.

* * * * *

(Secs. 204, 403, 404, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760, and 788, as amended, 49 U.S.C. 1324, 1373, 1374, and 1482)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Attachment A

[PSDR–66–A and PSDR–66–C]

Comments on Fare Flexibility

A. Members of Congress.
B. Carriers.
C. Airport Authorities.
D. Chambers of Commerce.
E. Other Parties.
F. Associations.
G. Individual Comments.

A. Members of Congress

1. *Nine U.S. Senators:* Recommend equal upward fare flexibility in all markets.

2. *Senator Byrd:* Concurs with Nine U.S. Senators' position.

B. Carriers

1. *American;* and,

2. *Republic;* and,

3. *US Air:* Support Board's interim fare policies. However, should the Board amend its fare policies they recommend upward fare flexibility of 50% in all markets.

4. *Piedmont:* Same comments as AA, Republic and USAir, and an additional alternative based on $20 plus 20% upward fare flexibility in all markets.

[4] We remind carriers that the zones of fare flexibility are based on the standard industry fare level or "SIFL," as defined in the Federal Aviation Act, and not on the fare formula published periodically in the Board's SIFL update orders. "Standard industry fare level" is defined in section 1002(d)(6) of the Act essentially as the fare in effect in each domestic market on July 1, 1977, adjusted by the Board for cost increases. In markets where more than one fare was available for coach service on that date, we have interpreted the SIFL as being the predominant one, adjusted for cost increases. The fare formula published in the SIFL update orders, which is sometimes referred to as the "SIFL fare formula," is merely the DPFI formula, adjusted for cost increases in accordance with the Act. In most markets, the predominant fare in effect on July 1, 1977, was exactly the amount yielded by applying the DPFI formula to the shortest authorized mileage. In those cases, the statutory SIFL and the current formula are the same, as long as the shortest authorized mileage has not decreased as a result of restriction removal or new route authority. In some markets, however, the predominant fare in effect on July 1, 1977, was either higher or lower than the DPFI formula fare, and the statutory SIFL today differs correspondingly from the current formula fare. The $15 and 30 percent upward flexibility policy for the 48 continguous States and the District of Columbia is calculated from the statutory amount. In future update orders, the percentage increase over July 1, 1977 fares will be stated explicitly. The current factor, effective through December 31, 1980, is 1.6040.

[5] See Table III and Charts I and II.

C. Airport Authorities

1. *Indianapolis Airport Authority:* Opposes broad zones of flexibility. Also states that apparently Board did not fully consider its previously filed comments objecting to upward flexibility in short-haul markets. Recommends that any upward flexibility in excess of 10% above SIFL be offset by a corresponding reduction in off-peak coach fares.

2. *Durango-La Plata County Airport;* and,

3. *Watertown (S.D.) Municipal Airport;* and,

4. *Mason City, Iowa Airport Commission:* Oppose upward fare flexibility in short-haul markets.

5. *Huntsville-Madison County Airport (Alabama);* and,

6. *Norfolk Port & Industrial Authority—Norfolk International Airport;* and,

7. *Lincoln Municipal Airport (Lincoln, Nebraska);* and,

8. *Metropolitan Knoxville Airport Authority:* Oppose tiered method of upward fare flexibility for markets of 400 miles and less. Recommend 30% upward fare flexibility in all markets.

9. *Lafayette Regional Airport;* and,

10. *Benedum Airport Authority, Bridgeport, W. Virginia;* and,

11. *Mt. Vernon Airport Authority, Mt. Vernon, Illinois;* and,

12. *Kern County Department of Airports (California);* and,

13. *Aspen-Pitkin County Airport, Aspen, Colorado;* and,

14. *Michiana Regional Airport-St. Joseph County Airport Authority:* Oppose unlimited upward fare flexibility.

15. *Waterloo Municipal Airport, Waterloo, LA.:* Opposes unlimited upward fare flexibility; Opposes 50% upward fare flexibility where there is no competition.

16. *Rhinelander-Oneida County Airport Commission:* Opposes interim upward fare flexibility policy. Urges reconsideration.

17. *Albany-Dougherty County Airport, Albany, Ga.:* Urges Reconsideration.

D. Chambers of Commerce

1. *Fresno County and City:* Requests public hearings be held. Recommends all carriers be given 30% upward fare flexibility in all markets, same as that now applicable to local service carriers. Further, requests that we not make our interim policy permanent at this time.

2. *Albany, GA.:* Opposes unlimited upward fare flexibility.

3. *Grand Island, Nebraska:* Supports Board's interim fare flexibility policy.

E. Other Parties

1. *Las Vegas parties;* and,

2. *City of Dayton, Ohio;* and,

3. *Tiffin Automobile Club:* Recommend 30% upward fare flexibility in all markets.

4. *Ralph Nader, ACAP:* Urges repeal of all regulatory upward fare flexibility.

5. *New York State DOT:* Agrees with the interim policy.

6. *Durango County Commissioners;* and,

7. *Mayor of Durango:* Concur with Durango Airport's Comments.

8. *City of Carmel-by-the-Sea:* Opposes upward fare flexibility in markets 400 miles and less. Recommends more study prior to continuation.

9. *City of Sioux Falls:* Opposes unlimited upward fare flexibility.

10. *Cuesta College-San Luis Obispo County Community College District (13 signatories):* Opposes unlimited upward fare flexibility.

11. *Governor of West Virginia:* Opposes upward fare flexibility in short-haul markets. Recommends equal upward fare flexibility in all markets.

12. *Bell Helicopter Textron:* Favors full or substantial flexibility in short-haul markets. In markets over 200 miles, recommends 10% flexibility above SIFL, increased by increments of 5% each quarter until January 1, 1983.

13. *Commonwealth of Pennsylvania DOT:* Favors 30% upward flexibility in all markets.

F. Associations

1. *Airport Operators Council International:* Opposes upward fare flexibility for markets of 400 miles or less. Recommends 30% upward fare flexibility in all markets.

2. *American Association of Airport Executives:* Opposes upward fare flexibility in short-haul markets.

G. Individual Comments

33 individual comments were received. 20 of those comments oppose unlimited upward fare flexibility. One comment recommends 30% upward fare flexibility in all markets. 3 comments oppose all upward fare flexibility, and the rest are opposed to upward fare flexibility in markets of 400 miles or less.

Table I.-*Average Percent That Tariff Normal Fares Exceeded DPFI Formula Fares, All Markets, by Mileage Block* [1]

Carrier group	Mileage		
	0-200	201-400	400+
All carriers			
May	19.5	22.2	12.5
June	25.9	28.5	19.3
July	24.6	25.2	16.3
Sept.[2]	24.4	26.3	17.0
Certificated carriers			
May	22.4	23.7	12.6
June	29.5	30.4	19.4
July	27.9	26.9	16.5
Sept.[2]	28.3	28.4	17.2
Trunk carriers			
May	19.1	18.0	10.2
June	30.0	28.2	19.3
July	26.2	23.6	15.7
Sept.[2]	34.1	32.3	22.8
Local carriers			
May	25.9	29.6	16.2
June	32.2	35.2	20.2
July	32.0	31.8	19.0
Sept.[2]	37.0	37.5	21.7
Commuter carriers			
May	5.4	2.2	3.4
June	10.5	7.8	0.5
July	10.8	6.6	0.8
Sept.[2]	7.4	8.8	2.2

[1] Covers local tariffs for all markets.
[2] As of September 12.

Average Percent That Tariff Normal Fares Exceeded DPFI Formula Fares, Competitive Markets, by Mileage Block [1]

Carrier group	Mileage		
	0-200	201-400	401+
All carriers			
May	9.1	2.8	6.3

Average Percent That Tariff Normal Fares Exceeded DPFI Formula Fares, Competitive Markets, by Mileage Block [1]—Continued

Carrier group	Mileage		
	0-200	201-400	401+
June	14.9	11.3	13.8
July	12.9	7.3	10.4
Sept.[2]	19.0	14.6	16.3
Certificated carriers			
May	10.0	2.2	6.2
June	17.7	11.9	13.9
July	15.2	7.9	10.5
Sept.[2]	17.2	10.2	16.5
Trunk carriers			
May	8.9	6.0	8.4
June	17.7	16.3	16.4
July	14.6	11.9	13.0
Sept.[2]	18.3	17.3	14.6
Local carriers			
May	15.1	1.2	2.7
June	22.1	10.0	10.1
July	20.2	6.7	6.2
Sept.[2]	26.9	12.6	10.7
Commuter carriers			
May	5.4	9.4	0.03
June	4.2	3.3	5.7
July	4.2	1.5	3.1
Sept.[2]	7.1	5.6	2.8

[1] Covers local tariffs for nonstop competitive markets.
[2] As of September 12.

Average Percent That Tariff Normal Fares Exceeded DPFI Formula Fares, Monopoly Markets, by Mileage Block [1]

Carrier group	Mileage		
	0-200	201-400	401+
All carriers			
May	13.7	19.1	8.2
June	20.7	22.8	15.9
July	19.2	19.3	12.6
Sept.[2]	24.0	24.3	18.8
Certificated carriers			
May	17.2	15.3	8.2
June	24.6	24.3	16.1
July	22.9	20.7	12.7
Sept.[2]	23.8	21.1	13.9
Trunk carriers			
May	16.4	14.5	10.1
June	30.4	25.7	18.6
July	27.2	21.5	14.9
Sept.[2]	31.4	23.9	16.9
Local carriers			
May	19.1	20.3	4.5
June	25.1	27.8	12.0
July	24.6	24.3	8.7
Sept.[2]	30.7	27.4	13.2
Commuter carriers			
May	1.3	3.9	−2.0
June	5.9	8.2	7.5
July	5.3	6.6	2.9
Sept.[2]	7.0	9.8	3.0

[1] Covers local tariffs for nonstop monopoly markets.
[2] As of September 12.

Table II.—*Distribution of Normal Coach Fares in Relation to SIFL; Domestic Trunk Carriers*

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; ratemaking miles	Percent of SIFL [1]			
	0 to 200	201 to 400	Over 400	Total
0.1 to 80.0	14	12	33	59
80.1 to 85.0	4	9	5	18
85.1 to 90.0	3	8	4	15
90.1 to 95.0	5	21	46	72
95.1 to 100.0	13	20	145	178
100.1 to 105.0	27	43	210	280
105.1 to 110.0	17	33	299	349
110.1 to 115.0	67	82	875	1,024
115.1 to 120.0	128	319	3,151	3,598

Table II.—*Distribution of Normal Coach Fares in Relation to SIFL; Domestic Trunk Carriers*—Continued

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; ratemaking miles	Percent of SIFL [1]			
	0 to 200	201 to 400	Over 400	Total
120.1 to 125.0	146	124	1,169	1,439
125.1 to 130.0	80	93	1,154	1,327
130.1 to 135.0	95	127	1,812	2,034
Subtotal	599	891	8,903	10,393
135.1 to 140.0	29	36	105	170
140.1 to 145.0	17	21	35	73
145.1 to 150.0	21	15	24	60
Over 150.0	76	51	60	187
Subtotal	143	123	224	490
Total (all city pairs)	742	1,014	9,127	10,883
Percentage Distribution of City Pair Markets				
0.1 to 80.0	1.9	1.2	.4	.5
80.1 to 85.0	.5	.9	.1	.2
85.1 to 90.0	.4	.8	.1	.1
90.1 to 95.0	.6	2.1	.5	.7
95.1 to 100.0	1.8	2.0	1.6	1.6
100.1 to 105.0	2.6	4.2	2.3	2.6
105.1 to 110.0	2.3	3.3	3.3	3.2
110.1 to 115.0	9.0	8.1	9.6	9.4
115.1 to 120.0	17.3	31.5	34.5	33.1
120.1 to 125.0	19.7	12.2	12.8	13.2
125.1 to 130.0	10.8	9.2	12.6	12.2
130.1 to 135.0	10.8	12.5	19.9	18.7
Subtotal	80.7	87.9	97.5	95.5
135.1 to 140.0	3.9	3.5	1.2	1.6
140.1 to 145.0	2.3	2.1	.4	.7
145.1 to 150.0	2.8	1.5	.3	.5
Over 150.0	10.2	5.0	.6	1.7
Subtotal	19.3	12.1	2.5	4.5
Total	100.0	100.0	100.0	100.0

Distribution of Normal Coach Fares in Relation to SIFL; Local Service Carriers

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; ratemaking miles	Percent of SIFL			
	0 to 200	201 to 400	Over 400	Total
0.1 to 80.0	106	40	12	158
80.1 to 85.0	41	30	7	78
85.1 to 90.0	27	37	32	96
90.1 to 95.0	32	51	40	123
95.1 to 100.0	66	52	96	214
100.1 to 105.0	108	95	569	772
105.1 to 110.0	200	205	369	774
110.1 to 115.0	266	443	771	1,480
115.1 to 120.0	475	991	811	2,277
120.1 to 125.0	93	483	349	925
125.1 to 130.0	255	127	149	531
130.1 to 135.0	252	92	116	460
Subtotal	1,921	2,646	3,321	7,888
135.1 to 140.0	34	39	11	84
140.1 to 145.0	24	16	6	46
145.1 to 150.0	10	15	11	36
Over 150.0	35	21	9	65
Subtotal	63	91	37	231
Total (all city pairs)	2,024	2,737	3,358	8,119

Distribution of Normal Coach Fares in Relation to SIFL; Local Service Carriers—Continued

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; ratemaking miles	Percent of SIFL			
	0 to 200	201 to 400	Over 400	Total
Percentage Distribution of City Pair Markets				
0.1 to 80.0	5.2	1.5	.4	2.0
80.1 to 85.0	2.0	1.1	.2	1.0
85.1 to 90.0	1.3	1.3	1.0	1.2
90.1 to 95.0	1.6	1.9	1.2	1.5
95.1 to 100.0	3.3	1.9	2.8	2.6
100.1 to 105.0	5.3	3.5	16.9	9.5
105.1 to 110.0	9.9	7.5	11.0	9.5
110.1 to 115.0	13.1	16.2	23.0	18.2
115.1 to 120.0	23.5	36.2	24.1	28.0
120.1 to 125.0	4.6	17.6	10.4	11.4
125.1 to 130.0	12.6	4.5	4.4	6.6
130.1 to 135.0	12.5	3.4	3.4	5.7
Subtotal	94.9	96.7	98.9	97.2
135.1 to 140.0	1.7	1.4	.3	1.0
140.1 to 145.0	1.2	.6	.2	.6
145.1 to 150.0	.5	.5	.3	.4
Over 150.0	1.7	.8	.3	.8
Subtotal	5.1	3.3	1.1	2.8
Total	100.0	100.0	100.0	100.0

Source: ATP Fare Tape, September 20, 1980.

Distribution of Normal Coach Fares in Relation to DPFI; Domestic Trunk Carriers

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; miles	Percentage of DPFI			
	0 to 200	201 to 400	Over 400	Total
0.1 to 80.0	12	12	97	121
80.1 to 85.0	2	6	125	133
85.1 to 90.0	6	11	31	48
90.1 to 95.0	7	6	84	97
95.1 to 100.0	23	26	119	168
100.1 to 105.0	44	48	215	307
105.1 to 110.0	26	25	297	348
110.1 to 115.0	80	94	950	1,124
115.1 to 120.0	188	350	3,141	3,679
120.1 to 125.0	103	111	1,140	1,354
125.1 to 130.0	84	116	1,979	2,179
130.1 to 135.0	81	105	770	956
Subtotal	656	910	8,948	10,514
135.1 to 140.0	24	32	59	115
140.1 to 145.0	8	16	25	49
145.1 to 150.0	22	16	32	70
Over 150.0	32	40	63	135
Subtotal	86	104	179	369
Total (all city pairs)	742	1,014	9,127	10,883
Total (percent)	6.9	9.2	83.9	100.0
Percentage Distribution of City Pair Markets				
0.1 to 80.0	1.6	1.2	1.1	1.1
80.1 to 85.0	.3	.6	1.4	1.2
85.1 to 90.0	.8	1.1	.3	.5
90.1 to 95.0	.9	.6	.9	.9
95.1 to 100.0	3.1	2.5	1.3	1.6
100.1 to 105.0	5.9	4.7	2.4	2.8
105.1 to 110.0	3.6	2.5	3.3	3.2
110.1 to 115.0	10.8	9.3	10.4	10.3
115.1 to 120.0	25.3	34.5	34.3	33.8

Distribution of Normal Coach Fares in Relation to DPFI; Domestic Trunk Carriers—Continued

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; miles	Percentage of DPFI			
	0 to 200	201 to 400	Over 400	Total
120.1 to 125.0	13.9	10.9	12.5	12.4
125.1 to 130.0	11.3	11.4	21.7	20.0
130.1 to 135.0	10.9	10.4	8.4	8.8
Subtotal	88.4	89.7	98.0	96.6
135.1 to 140.0	3.2	3.2	.6	1.1
140.1 to 145.0	1.1	1.6	.3	.5
145.1 to 150.0	3.0	1.6	.4	.6
Over 150.0	4.3	3.9	.7	1.2
Subtotal	11.6	10.3	2.0	3.4
Total	100.0	100.0	100.0	100.0

Distribution of Normal Coach Fares in Relation to DPFI; Local Service Carriers

[Based on Normal Coach Fares Effective on Sept. 20, 1980]

Number of city-pair markets; ratemaking miles	Percent of DPFI			
	0 to 200	201 to 400	Over 400	Total
0.1 to 80.0	32	8	3	43
80.1 to 85.0	12	6	3	21
85.1 to 90.0	10	1	2	13
90.1 to 95.0	8	2	1	11
95.1 to 100.0	46	32	10	88
100.1 to 105.0	35	15	21	71
105.1 to 110.0	55	31	65	151
110.1 to 115.0	65	74	214	353
115.1 to 120.0	104	174	541	819
120.1 to 125.0	83	155	526	764
125.1 to 130.0	110	188	1,233	1,531
130.1 to 135.0	106	320	590	1,016
Subtotal	666	1,006	3,209	4,881
135.1 to 140.0	167	488	40	695
140.1 to 145.0	302	523	33	858
145.1 to 150.0	342	468	27	837
Over 150.0	547	252	49	848
Subtotal	1,358	1,731	149	3,238
Total (all city pairs)	2,024	2,737	3,358	8,119
Total (percent)	24.9	33.7	41.4	100.0
Percentage Distribution of City Pair Markets				
0.1 to 80.0	1.6	.2	.1	.5
80.1 to 85.0	.6	.2	.1	.3
85.1 to 90.0	.5	–	.1	.3
90.1 to 95.0	.4	.1	–	.1
95.1 to 100.0	2.3	1.2	.3	1.1
100.1 to 105.0	1.7	.5	.6	.9
105.1 to 110.0	2.7	1.1	1.9	1.9
110.1 to 115.0	3.2	2.7	6.3	4.3
115.1 to 120.0	5.1	6.4	16.1	10.1
120.1 to 125.0	4.1	5.7	15.7	9.4
125.1 to 130.0	5.5	6.9	36.7	18.8
130.1 to 135.0	5.2	11.7	17.6	12.5
Subtotal	32.9	36.8	95.5	60.1
135.1 to 140.0	8.3	17.8	1.2	8.6
140.1 to 145.0	14.9	19.1	1.0	10.6
145.1 to 150.0	16.9	17.1	.8	10.3
Over 150.0	27.0	9.2	1.5	10.4
Subtotal	67.1	63.2	4.5	39.9
Total	100.0	100.0	100.0	100.0

Source: ATP Fare Tape—September 20, 1980.

Table III.—*Fare Flexibility Options Tax Rounded*

	DPFI cost curve adjusted [1]	Standard industry fare level based on DPFI fare formula and with selected options as adjusted for costs						
		DPFI at 100 pct [2]	DPFI at 130 pct [2]	DPFI at 140 pct [2]	DPFI at 150 pct [2]	Adjusted DPFI at 130 pct [3]	Adjusted version 6 costs at 130 pct [4]	DPFI + $15 at 130 pct [5]
Ratemaking mileage:								
50	$59.29	$33.33	$43.52	$46.30	$50.00	$62.04	$63.89	$62.04
100	66.04	39.81	51.85	55.56	59.26	71.30	71.30	71.30
200	79.55	54.63	71.30	76.85	82.41	89.81	86.11	89.81
300	93.05	68.52	88.89	96.30	102.78	107.41	100.00	108.33
400	106.56	82.41	107.41	115.74	124.07	125.93	114.81	126.85
500	120.07	97.22	125.93	136.11	145.37	144.44	129.63	145.37
600	133.58	107.41	139.81	150.00	161.11	158.33	144.44	159.26
700	147.08	118.52	153.70	165.74	177.78	173.15	158.33	173.15
800	160.59	129.63	168.52	181.48	194.44	187.04	173.15	187.96
900	174.10	139.81	181.48	195.37	209.26	200.93	187.96	201.85
1,000	187.60	150.93	196.30	211.11	226.85	214.81	201.85	215.74
1,100	201.11	162.04	211.11	226.85	243.52	228.70	216.67	229.63
1,200	214.62	172.22	224.07	240.74	258.33	243.52	231.48	243.52
1,300	228.12	183.33	237.96	256.48	275.00	257.41	246.30	257.41
1,400	241.63	194.44	252.78	272.22	291.67	271.30	260.19	272.22
1,500	255.14	204.63	265.74	286.11	307.41	285.19	275.00	286.11
1,600	268.65	215.74	280.56	301.85	323.15	299.07	289.81	299.07
1,700	282.15	225.93	293.52	316.67	338.89	312.04	304.63	312.96
1,800	295.66	236.11	306.48	330.56	353.70	325.93	318.52	326.85
1,900	309.17	246.30	320.37	344.44	369.44	338.89	333.33	339.81
2,000	322.67	256.48	333.33	359.26	384.26	352.78	348.15	353.70
2,100	336.18	267.59	348.15	375.00	400.93	366.67	362.04	366.67
2,200	349.69	277.78	361.11	388.89	416.67	379.63	376.85	380.56
2,300	363.19	287.96	374.07	402.78	431.48	393.52	391.67	393.52
2,400	376.70	298.15	387.96	417.59	447.22	406.48	406.48	407.41
2,500	390.21	309.26	401.85	433.33	463.89	420.37	420.37	421.30
2,600	403.72	319.44	414.81	442.22	478.70	434.26	435.19	434.26
2,700	417.22	329.63	428.70	461.11	494.44	447.22	450.00	448.15
2,800	430.73	339.81	441.67	475.93	509.26	460.19	463.89	461.11

[1] Table V.
[2] DPFI Fare Formula as of July 1, 1980, computed at indicated percentages.
[3] Table VIII.
[4] Table VI.
[5] Table IV.

Table IV.—*Standard Industry Fare Level With Modified Terminal Charge Tax Rounded as of July 1, 1980*

Miles	DPFI fare formula plus $15 [1]	
	At 100 pct	At 13 pct
50	$48.15	$62.41
100	55.56	71.63
200	69.44	90.06
300	83.33	108.50
400	97.22	126.70
500	112.04	145.37
600	122.22	159.42
700	133.33	173.47
800	144.44	187.53
900	154.63	201.58
1,000	165.74	215.56
1,100	176.85	229.68
1,200	187.04	243.74
1,300	198.15	257.79
1,400	209.26	271.84
1,500	220.37	285.90
1,600	230.56	299.40
1,700	240.74	312.91
1,800	250.93	326.43
1,900	261.11	339.92
2,000	272.22	353.43
2,100	282.41	366.94
2,200	292.59	380.45
2,300	302.78	393.95
2,400	313.89	407.46
2,500	324.07	420.97
2,600	334.26	434.47
2,700	344.44	447.98
2,800	354.63	461.49

[1] Terminal charge—$25.92; 0–500 miles—.1418; 501–1,500—.1081; Over 1,500 miles—.1039, (DPFI fare formula as at July 1, 1980 plus added terminal charge factor).

Table V.—*DPFI Cost Curve (Base Year and as Adjusted to July 1, 1980)*

Miles	Base year [1]	As at July 1, 1980	
		At 100 pct.[2]	At 130 pct.[3]
50	$21.72	$45.59	$59.29
100	24.20	50.80	66.04
200	29.15	61.19	79.55
300	34.10	71.58	93.05
400	39.05	81.97	106.56
500	44.00	92.36	120.07
600	48.95	102.75	133.58
700	53.90	113.14	147.08
800	58.85	123.53	160.59
900	63.80	133.92	174.10
1,000	68.75	144.31	187.60
1,100	73.70	154.70	201.11
1,200	78.65	165.09	214.62
1,300	83.60	175.48	228.12
1,400	88.55	185.87	241.63
1,500	93.50	196.26	255.14
1,600	98.45	206.65	268.65
1,700	103.40	217.04	282.15
1,800	108.35	227.43	295.66
1,900	113.30	237.82	309.17
2,000	118.25	248.21	322.67
2,100	123.20	258.60	336.18
2,200	128.15	268.99	349.69
2,300	133.10	279.38	363.19
2,400	138.05	289.77	376.70
2,500	143.00	300.16	390.21
2,600	147.95	310.55	403.72
2,700	152.90	320.94	417.22
2,800	157.85	331.33	430.73

[1] Costs derived from Domestic Passenger Fare Investigation, Docket 21866-9, Exhibit BC-4926: $19.25 + $.0495 per mile.
[2] Computed at $40.41 + $.1039 per mile. Cumulative SIFL adjustment factor from April 29, 1975. (see Orders 74-12-109, 77-7-26 and 79-6-96) to July 1, 1980 at 2.099.
[3] Computed at $52.533 + $.13507.

Table VI.—*Computed Standard Industry Fare Level Based on Version Six Economic Cost for Coach Service Before Tax Rounding*

Distance[1]	Calendar year 1977 trunk coach passenger cost[2]	Cost as of July 1, 1980[3]	Dilution factor[4]	Adjusted cost as of July 1, 1980	Computed July 1, 1980, cost per passenger[5]	Computed July 1, 1980, cost plus 30 pct
0	$27.10	$43.47			$43.58	$56.65
50					49.18	63.93
100	33.89	54.36	0.7704	$70.56	54.78	71.21
200	34.98	56.11	.9146	61.35	65.98	85.77
300	39.54	63.42	.8690	72.98	77.18	100.33
400	43.37	69.57	.8205	84.79	88.38	114.89
500	50.91	81.66	.8594	95.02	99.58	129.45
700	60.92	97.72	.8376	116.66	121.98	158.57
1,000	77.84	124.86	.7767	160.75	155.58	202.25
1,300	94.48	151.55	.8266	183.34	189.18	245.93
1,600	107.65	172.67	.8041	214.74	222.78	289.91
1,900	125.74	201.69	.7754	260.11	256.38	333.29
2,200	149.56	239.89	.7651	313.55	289.98	376.97
2,500	138.75	222.56	.7200	309.11	323.58	420.65
2,800	160.16	256.90	.7276	353.07	357.18	464.33

[1] Nonstop flight basis.
[2] Domestic trunkline composite passenger cost data (flight basis), version six economic cost per passenger. Least squares regression equation (excluding over 2,800 mile observation): $27.10 per passenger plus 4.94¢ per mile.
[3] Calendar year 1977 times cumulative cost adjustment factor of 1.604.
[4] Based on O. & D. passenger data by price for third quarter, 1979, compared with DPFI fare formula.
[5] Based on least squares regression: $43.576 per passenger plus 11.20¢ per mile.

Table VII.—*Economy Cost Per Coach Passenger at Standard 55 pct Load Factor Byproduct Costing for Selected Aircraft Types*

[Calendar year 1979 cost base]

Mileage	Domestic trunk carriers				Local service	Weighted average
	DC-9-30	727-200	DC-10-10	B-747	DC-9-30	
0	$26.61	$29.84	$39.33	$39.33	$25.14	
50	29.90	32.76	41.76	41.53	28.29	
100	33.19	35.69	44.20	43.73	31.44	
200	39.78	41.53	49.07	48.13	37.73	
300	46.36	47.38	53.94	52.52	44.03	
400	52.95	53.23	58.81	56.92	50.32	
500	59.53	59.07	63.67	61.32	56.61	
600	66.12	64.92	68.54	65.72	62.90	
700	72.70	70.77	73.41	70.11	69.20	
800	79.29	76.61	78.28	74.51	75.50	
900	85.87	82.46	83.15	78.91	81.79	
1,000	92.45	88.31	88.02	83.31	88.06	
Number of departures	301,292	1,303,821	88,860	31,974	450,411	2,176,358
Terminal cost	$8,017,380	$38,906,019	$3,494,864	$1,257,537	$11,323,333	$62,999,133
Average terminal cost, calendar year 1979	26.61	29.84	39.33	39.33	25.14	28.94
Average terminal cost as of July 1, 1980[1]						37.77
Adjusted cost as of July 1, 1980[2]						47.21
Line haul cost (cents)	6.5844	5.8467	4.8689	4.3978	6.2936	

[1] Adjusted by SIFL cost adjustment factor July 1, 1979, to July 1, 1980, of 1.3051.
[2] Adjusted for fare dilution at 0.80 to determine normal fare passenger terminal cost.
Source: Version Six costing methodology, based on 55 pct load factor by equipment type.

Table VIII.—*Standard Industry Fare Level With Cost Adjusted Terminal Charge Tax Rounded as of July 1, 1980*

Miles	DPFI fare with adjusted terminal charge[1]	
	Fare at 100 pct of adjusted DPFI[2]	Fare at 130 pct of adjusted DPFI
50	$47.22	$62.04
100	54.63	71.30
200	68.52	89.81
300	83.33	107.41
400	97.22	125.93
500	111.11	144.44
600	122.22	158.33
700	133.33	173.15
800	143.52	187.04
900	154.63	200.93
1,000	165.74	214.81
1,100	175.93	228.70
1,200	187.04	243.52
1,300	198.15	257.41
1,400	208.33	271.30
1,500	219.44	285.19
1,600	229.63	299.07
1,700	239.81	312.04
1,800	250.92	325.93
1,900	261.11	338.89
2,000	271.30	352.78
2,100	281.48	366.67
2,200	292.59	379.63
2,300	302.78	393.52
2,400	312.96	406.48
2,500	323.15	420.37
2,600	333.33	434.26
2,700	344.44	447.22
2,800	354.63	460.19

[1] DPFI Cost Formula terminal charge of $19.25 (from Exhibit BC-4926, Docket 21866-9) adjusted for cost increase to 7/1/80 of 2.099 (SIFL cost adjustment from 4/29/75 to 7/1/80.
[2] DPFI fare formula as of July 1, 1980 with cost adjusted terminal charge: terminal charge—$40.41; 0-500 miles—.1418; 501-1,500 miles—.1081; Over 1,500 miles—.1039.

Table IX.—*Number of Markets Where Current Coach Fares Exceed DPFI/SIFL With Flexibility of $15/$20 Multiplied by 30 Pct.*

Number of markets	Mileage			
	0 to 200	201 to 400	Over 400	Total
DPFI+$15×1.3	74	74	156	304
DPFI+$20×1.3	26	45	113	184
SIFL+$15×1.3	30	41	127	198
SIFL+$20×1.3	12	27	86	125
Percent of Total Markets				
DPFI+$15×1.3	2.8	2.0	1.3	1.6
DPFI+$20×1.3	.9	1.2	.9	1.0
SIFL+$15×1.3	1.1	1.1	1.0	1.0
SIFL+$20×1.3	.4	.7	.7	.7
Total number of markets	2,770,	3,728	12,414	18,912

Source: ATP Fare Tape as of Sept. 20, 1980.

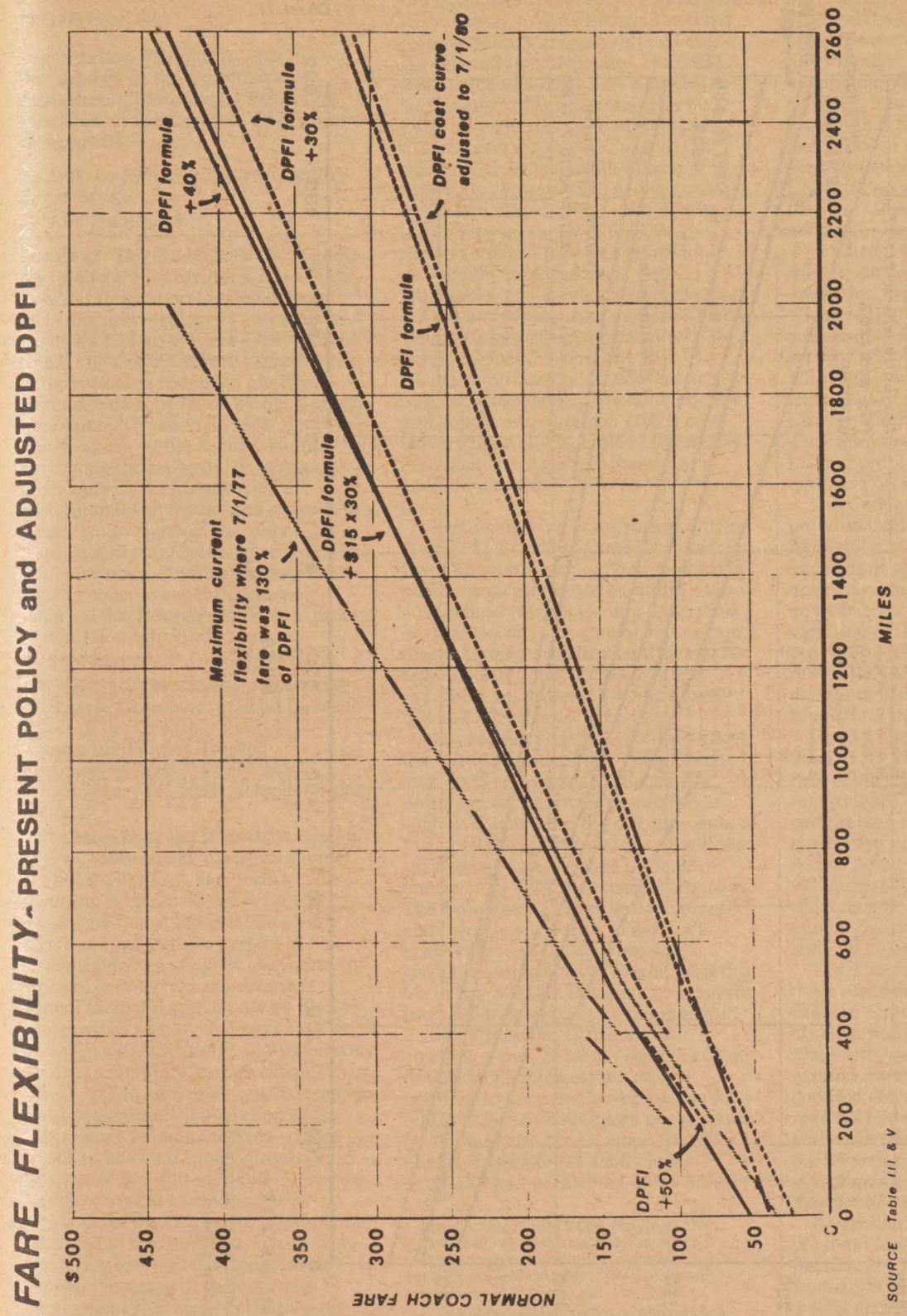
Table X.—*Distribution of Normal Coach Fares in Relation to DPFI and SIFL for Single-Plane Service Markets Under 200 Miles With 50,000 Plus Passengers Per Year (Certificated)*

	DPFI	SIFL
0.1 to 80.0	3	1
80.1 to 85.0	2	2
85.1 to 90.0	2	.....
90.1 to 95.0	.....	2
95.1 to 100.0	10	2
100.1 to 105.0	7	9
105.1 to 110.0	6	10
110.1 to 115.0	32	37
115.1 to 120.0	62	68
120.1 to 125.0	34	41
125.1 to 130.0	30	24
130.1 to 135.0	8	23
Subtotal	196	219
135.1 to 140.0	15	7
140.1 to 145.0	9	3
145.1 to 150.0	13	4
Over 150.0	14	14
Subtotal	51	28
Total all city pair markets	247	247
Percentage Distribution of City Pair Markets		
0.1 to 80.0	1.2	.4
80.1 to 85.0	.8	.8
85.1 to 90.0	.8	
90.1 to 95.0		.8
95.1 to 100.0	4.1	.8
100.1 to 105.0	2.8	3.7
105.1 to 110.0	2.4	4.1
110.1 to 115.0	13.0	15.0
115.1 to 120.0	25.1	27.5
120.1 to 125.0	13.8	16.6
125.1 to 130.0	12.1	9.7
130.1 to 135.0	3.2	9.3
Subtotal	79.3	88.7
135.1 to 140.0	6.1	2.8
140.1 to 145.0	3.6	1.2
145.1 to 150.0	5.3	1.6
Over 150.0	5.7	5.7
Subtotal	20.7	11.3
Total	100.0	100.0

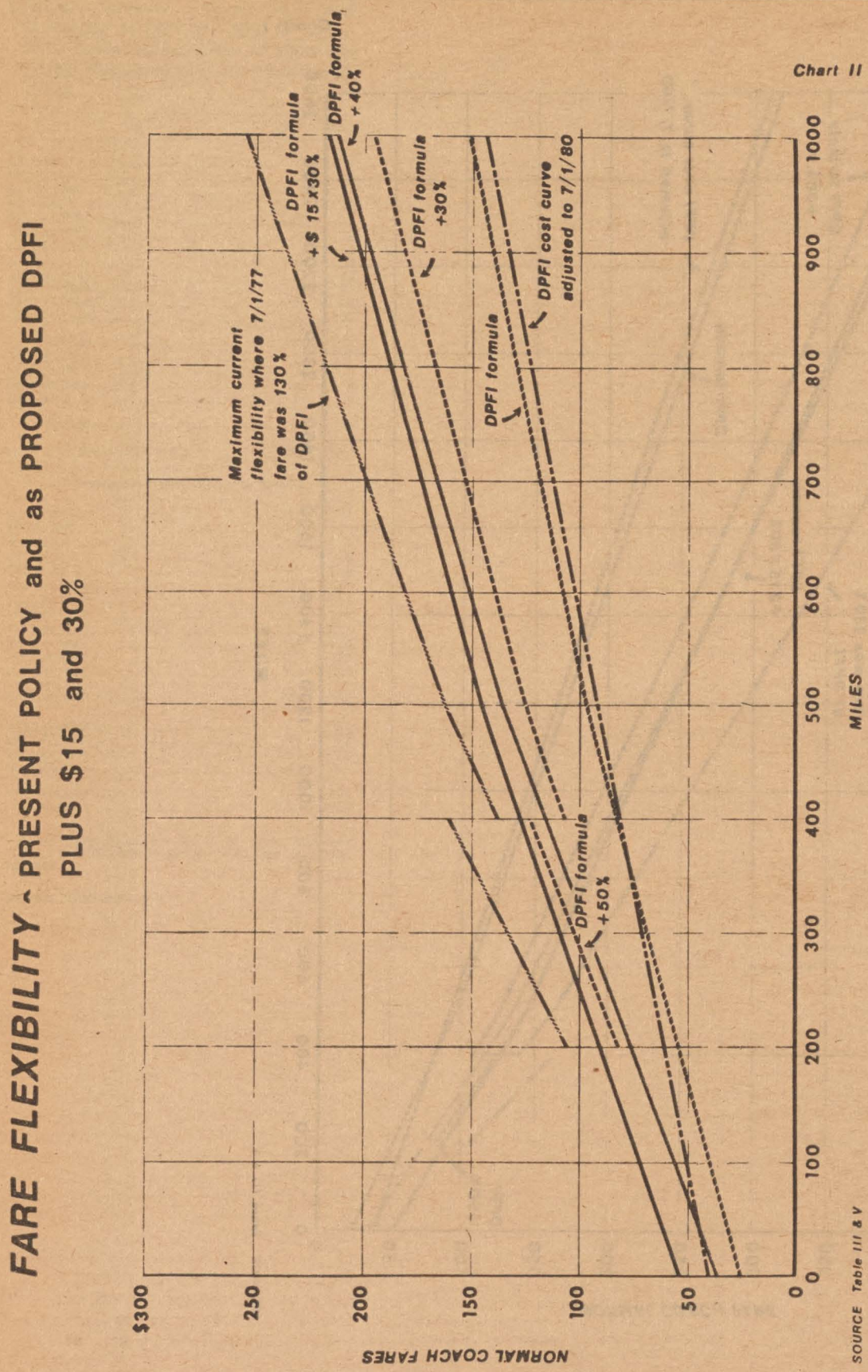
Source: Origin-Destination Survey of Airline Passenger Traffic, CY 1979, Table 10 and ATP Fare Type, September 12, 1980.

BILLING CODE 6320-01-M

Chart I



SOURCE Table III & V



SOURCE Table III & V

[FR Doc. 80-33277 Filed 10-23-80; 8:45 am]

BILLING CODE 6320-01-C

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Organization, Functions, and Procedures of the Commission; Amendment to Financial Reporting Provision of the Conduct Regulation (Subpart C)

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending the financial reporting provision of its Conduct Regulation for Commission members and employees and former members and employees—the Code of Conduct ("Code"). These amendments to the reporting provision effectuate recommendations made by the General Accounting Office in its 1978 report to the Congress on the Commission by expanding the reporting requirement applicable to the Commission's professional employees and establishing a certification system for other Commission employees. In addition, the Commission is updating the provision which concerns separate filing of financial disclosure reports by high-level Commission officials.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Special Counsel, Office of the General Counsel Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, telephone (202) 254–5529.

SUPPLEMENTARY INFORMATION: Section 7 of the Commission's Code of Conduct, 17 CFR § 140.735–7, sets forth a reporting requirement as to outside employment and financial interests which is applicable to certain of the Commission's employees. As presently written, that section requires that annual financial statements be filed by Commission employees in grades GS–13 and above as well as by all Commission attorneys, auditors and investigators in GS–11 and 12 grades. In a 1978 report to Congress entitled "Regulation of the Commodity Futures Markets—What Needs to be Done," the Comptroller General of the United States recommended that the reporting provision of the Commission's Code be amended in two respects. First, it was recommended that the Commission expand the scope of its reporting requirement to include certain lower-level professional employees. In its report, the General Accounting Office ("GAO") determined that these employees should be required to file the annual disclosure statements with the Commission's Director of Personnel due to the nature of their decision-making responsibilities and sensitive duties at the Commission. Secondly, the GAO report recommended that a system of certification of compliance with the Code be instituted as to all remaining Commission employees, who in the course of their responsibilities and duties also have access to sensitive nonpublic official information. After conducting a review of the GAO recommendations, the Commission determined in accordance with applicable civil service standards that the expanded reporting and certification proposals would be appropriate in the public interest.[1] Therefore, the Commission decided to adopt those proposals in the form explained below and sought and obtained Office of Government Ethics, Office of Personnel Management, approval therefore in accordance with 5 CFR 735.104(a) and (e).

The Commission is amending Section 7(c)(3) of its Code of Conduct to require that Commission employees occupying positions as attorneys, auditors, economists, futures trading specialists [2] or investigators file annual statements of employment and financial interests regardless of their GS grade. This expanded reporting requirement will become effective as to current employees not later than 90 days after the effective date of this amendment and, as to employees subsequently promoted or otherwise appointed to such positions after the effective date of this amendment, the statement will be required to be submitted prior to entrance on duty with the Commission. The Commission notes that each such employee has the right to ask for a review through the Commission's grievance procedure of a compliant that his or her position has been improperly included in the reporting requirement.

In addition, the Commission is enacting a new Section 7(k) of its Code of Conduct, which establishes a certification of compliance system for all Commission employees not required to file financial disclosure statements. Each such employee shall certify annually that, to the best of his or her knowledge, information and belief, he or she does not nor does his or her spouse, his or her minor children or his or her other relatives who are residents of his or her immediate household, if any, have any financial interests or any outside employment which violates the Code of Conduct. The certification, along with a Privacy Act Notice, is Appendix A hereto. With respect to this new procedure, employees of the Commission as of the effective date of the amendment will be required to submit the certification not later than 90 days after the effective date. Those subsequently promoted or otherwise appointed to such positions after the effective date of the amendment must submit the certification prior to entrance on duty with the Commission. Each affected Commission employee has the right to ask for a review through the Commission's grievance procedure of a complaint that his or her position has been improperly included under the certification system.

The Commission notes that notwithstanding the annual filing of a financial statement or a certification, each employee should at all times avoid acquiring a financial interest or taking any other action that would result in a violation of the conflict-of-interest provisions of 18 U.S.C. 208, relating to the matters in which the employee or certain related persons have a financial interest, or the Code of Conduct.

Finally, the Commission is amending Section 7(j) of its Code of Conduct to reflect the change in separate reporting required of Commission members and certain high-level Commission employees in the Ethics in Government Act of 1978. As amended, Section 7(j) will generally list the Commission officials who are required to file the annual financial disclosure reports under that Act.

The Commission has determined that these amendments to Section 7 of its Code of Conduct relate solely to agency organization, procedure and practice. Therefore, the procedures of the Administrative Procedure Act, as codified, 5 U.S.C. § 553, generally requiring notice of proposed rulemaking and other opportunity for public participation are not applicable. The amendments will become effective on November 24, 1980.

Accordingly, the Commission, pursuant to the authority contained in Sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. § 4a(j) and 12a(5), Executive Order 11222, 3 CFR, 1964–1965 Comp., as amended, and 5 CFR 735.104, hereby amends Section 7 of its Code of Conduct, Subpart C of Part 140 of

[1] In accordance with 5 CFR 735.403(d), the Commission deems these amendments to be essential to protect government integrity and to avoid Commission employee involvement in possible conflicts of interest.

[2] After conducting its review of professional employee positions, the Commission determined that all of its futures trading specialists, though not specifically included in the GAO recommendation, should also be required to file annual reports in light of their sensitive responsibilities and duties.

Chapter I of Title 17 of the Code of Federal Regulations as follows:

17 CFR 140.735-7 is amended by revising paragraph (c)(3) and (j) and adding a new paragraph (k) to read as follows:

§ 140.735-7 Statement of employment and financial interests.

* * * * *

(c) *Employees who are required to submit statements.* Statements of employment and financial interests are required of the following:

* * * * *

(3) Employees occupying positions as attorneys, auditors, economists, futures trading specialists or investigators in any classified positions under section 5332 of title 5, United States Code; and

* * * * *

(j) *Commission members and high-level employees.* Members of the Commission and Commission employees who occupy Senior Executive Service positions, positions compensated at the basic rate of pay of GS-16 or above, administrative law judge positions or Schedule C positions which entail advising as to or making policy determinations with respect to Commission programs or policies are subject to separate financial disclosure reporting requirements under the Ethics in Government Act.

(k) *Certification of Compliance.* (1) *Manner of submission; content of certification.* Each employee occupying a position designated in subparagraph (3) of this paragraph and therefore required to file a certification of compliance shall submit to the Director of Personnel annually a certification on CFTC Form 185. Each such employee shall certify that, to the best of his or her knowledge, information and belief, he or she does not, nor does his or her spouse, his or her minor children or his or her other relatives who are residents of his or her immediate household, if any, have any financial interests or any outside employment which violates the Conduct Regulation set forth in this subpart.

(2) *Time of submission.* Each employee occupying a position designated in subparagraph (3) of this paragraph shall: (i) If such employee is an employee as of the effective date of this section, submit the certification not later than 90 days after the effective date of this paragraph; or (ii) if promoted or otherwise appointed to such a position after the effective date of this paragraph, submit the certification prior to entrance on duty with the Commission in such position. Each such employee shall file a certification as of June 30 each year thereafter. Notwithstanding the filing of the annual certification required by this paragraph, each such employee shall at all times avoid acquiring a financial interest or taking any other action that would result in a violation of the conflict-of-interest provisions of 18 U.S.C. 208[13a] or this Conduct Regulation.

(3) *Employees who are required to submit certifications.* A certification of compliance is required of each Commission employee occupying a position not designated in paragraph (c) or (j) of this section. An employee has the right to ask for a review through the Commission's grievance procedure of a complaint that his or her position has been improperly included under the provisions of this paragraph as one requiring the submission of a certification of compliance.

Issued by the Commission in Washington, D.C. on October 17, 1980.

Jane K. Stuckey,
Secretary of the Commission.

Note.—The following Appendix will not appear in the Code of Federal Regulations.

Appendix A—Commodity Futures Trading Commission, Certification of Compliance With the Commission's Conduct Regulation

I certify that, to the best of my knowledge, information and belief, I do not, nor does my spouse, my minor children or my other relatives who are residents of my immediate household, if any, have any financial interests or any outside employment which violates the Commission's Conduct Regulation set forth in Title 17 of the Code of Federal Regulations, Part 140, Subpart C, 17 CFR 140.735-1 through 140.735-16 (the "Code of Conduct").

Date: _____

Signature of employee _____

CFTC Form 185
10/80

Privacy Act Notice

(To accompany Certification of Compliance)

This information is being provided pursuant to Pub. L. 93-579 (the Privacy Act of 1974, 5 U.S.C. 552a), for Commodity Futures Trading Commission employees required to file certifications of compliance with the Commission's Code of Conduct.

Sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12a(5), and Section 7 of the Commission's Code of Conduct, 17 CFR 140.735-7, constitute the authority for collecting the certification of compliance. This certification must be furnished; failure to do so could be cause for appropriate disciplinary action.

The certification will be used to determine whether there are any real or apparent conflicts of interest in violation of the conflict-of-interest laws, 18 U.S.C. 201 *et seq.*; Executive Order 11222; Sections 2(a)(7)(A), 9(d) and 9(e) of the Commodity Exchange Act, 7 U.S.C. 4a(f)(A), 13(d) and 13(e); and the Commission's Code of Conduct, 17 CFR 140.735-1-16. Any evidence of violation of the federal conflict-of-interest laws or other laws which is discovered may be referred to the Department of Justice, a United States Attorney or other law enforcement authorities.

[13a] *See n. 13, supra.*

[FR Doc. 80-33200 Filed 10-23-80; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Countervailing Duties; Float Glass From Italy Amendment to Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to countervailing duty order.

SUMMARY: This notice is to advise the public that, pursuant to an order of the Customs Court, the Department of Commerce is amending the countervailing duty order applicable to imports of float glass from Italy, T.D. 76-9, to include float glass manufactured or produced by Societa Italiana Vetro, S.p.A. The table in section 355, Annex III of the Commerce Regulations is amended to reflect this change.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-4036).

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1976, the Treasury Department published a countervailing duty order, T.D. 76-9, with respect to float glass from Italy (41 FR 1274). The Treasury Department modified the original order on March 8, 1977 (T.D. 77-77, 42 FR 13016) to exclude Societa Italiana Vetro (SIV), determining that "no bounty or grant is being or has been paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy produced by [SIV]."

The petitioner challenged that determination and, on March 29, 1979, the U.S. Customs Court held, in *ASG Industries Inc.* v. *United States*, 467 F. Supp. 1200 (Cust. Ct. 1979), that imports of float glass from Italy manufactured or produced by SIV did in fact benefit from the payment of bounties or grants. Liquidation was suspended following the court's decision. The United States appealed the Customs Court decision to

the U.S. Court of Customs and Patent Appeals (CCPA). On June 18, 1980, the CCPA granted the motion of the United States to dismiss its appeal. The original judgment of the Customs Court became effective on that date. That judgment remanded this case to the Department of the Treasury to:

(1) Ascertain and determine or estimate the net amount of the bounties or grants paid or bestowed upon the manufacture or production of float glass in Italy by SIV; and

(2) Direct the appropriate customs officers throughout the United States to assess countervailing duties, in said net amount equal to the said bounties or grants, entered or withdrawn from warehouse for consumption on or after the day following the date of entry of this order. [467 F. Supp. at 1245]

The Department of Commerce (the Department) is complying with this order because Reorganization Plan No. 3 of 1979, effective January 2, 1980, transferred authority for administering the countervailing duty law from the Department of the Treasury to the Department of Commerce.

Action

The Department determines that bounties or grants (subsidies) are being or have been paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy manufactured or produced by SIV, within the meaning of section 303 of the Tariff Act of 1930 (the Act), as in effect prior to the amendments made by the Trade Agreements Act of 1979 (the TAA). The Department estimates that these subsidies equal 2.46 percent of the f.o.b. value of the exported merchandise. This estimate is based upon information previously supplied by the Government of Italy. The Department intends to revise this estimate upon completion of its administrative review of the amended order pursuant to section 751 of the Act and section 104(c)(2) of the TAA. The Department will report the results of this review to the International Trade Commission in the event that a request for an injury determination concerning this merchandise is made under section 104(b) of the TAA (19 U.S.C. 1671, note).

The Department amends T.D. 76–9, as modified by T.D. 77–77, to include imports of Italian float glass from SIV, according to the following requirements. A cash deposit of estimated duties will be required in the amount of 2.46 percent of the f.o.b. value of shipments of float glass from SIV entered, or withdrawn from warehouse, for consumption on or after (the date of publication of this notice in the **Federal Register**). For Italian float glass manufactured by Fabbrica Pisana, S.p.A., already covered by the order, a cash deposit of estimated duties in the amount of 10 percent of the f.o.b. value of the merchandise, as specified in T.D. 76–9, will continue to be required. Customs officers shall continue the suspension of liquidation of entries of Italian float glass manufactured or produced by SIV and Fabbrica Pisana, S.p.A.

The float glass covered by this amendment is flat glass manufactured by SIV by the float process. The glass may be either tinted or clear and is produced in a wide variety of sizes ranging from ⅛" to 1" in thickness. The glass is classifiable under item numbers 543.21 through 543.69 of the Tariff Schedules of the United States (TSUS). Entries of float glass which have been substantially further manufactured (e.g., into tempered glass or laminated glass) are not subject to this amendment to the countervailing duty order on float glass from Italy.

The table in section 355, Annex III of the Commerce Regulations is amended by deleting the last three lines for Italy and replacing them with the following:

Float glass manufactured by Societa Italiana Vetro, S.p.A. and Fabbrica Pisana, S.p.A.	76–9	Bounty declared-rate.
	77–77	Modified to exclude float glass manufactured by Societa Italiana Vetro, S.p.A.
	(FR citation of this notice).	Modified to include float glass manufactured by Societa Italiana Vetro, S.p.A.
Cap screws, ¼" in diameter and over, of iron or steel.	76–225	Bounty declared-rate.
Iron or steel chains and parts.	77–249	Bounty declared-rate.

This amendment and publication of this notice are in accordance with section 303 of the Act (19 U.S.C. 1303), as in effect prior to the amendments made by the TAA, and section 104(c) of the TAA (19 U.S.C. 1671, note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-33201 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-25-M

---

19 CFR Part 355

Countervailing Duties; Tomato Products From the European Community; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration Commerce.

ACTION: Revocation of countervailing duty order.

SUMMARY: This notice is to advise the public that, as a result of a negative injury determination by the International Trade Commission, the Department of Commerce is revoking the countervailing duty order on tomato products from the European Community. The table in Part 355, Annex III of the Commerce Regulations is amended to reflect this revocation.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202–377–4347).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination," Treasury Decision 79–233, was published in the **Federal Register** of August 22, 1979 (44 FR 49248). The notice stated that the Treasury Department had determined that exports of tomato products from the European Community were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce (the Department). Since the member states of the European Community were "countries under the Agreement" as of January 1, 1980, the Department referred this case to the International Trade Commission (ITC) for a material injury determination in accordance with section 104(a)(1)(B) of the TAA. Effective January 1, liquidation was suspended and estimated countervailing duties were collected (see 45 FR 12860, February 27, 1980). The ITC published a negative material injury decision in the **Federal Register** of June 25, 1980 (45 FR 42899).

As a result, the Department hereby revokes T.D. 79–233 with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980. The Department will instruct Customs officers to proceed with liquidation of all such entries of the subject merchandise without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. Entries, or withdrawals from warehouse

for consumption made from August 22 through December 31, 1979, are subject to countervailing duties as set forth in T.D. 79–233.

PART 355—COUNTERVAILING DUTIES; TOMATO PRODUCTS FROM THE EUROPEAN COMMUNITY

Annex III [Amended]

The table in Part 355, Annex III, Commerce Regulations (19 CFR 355, Annex III, 45 FR 4949) is amended under the country heading "European Communities" by deleting from the column headed "Commodity," the words "Tomato products"; from the column headed "Treasury Decision," the numbers "79–233"; and from the column headed "Action," the words "Bounty declared—rate."

This revocation and notice publication are in accordance with section 104(a)(3)(B) of the TAA (93 Stat. 191, 19 U.S.C. 1671 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

October 20, 1980.

[FR Doc. 80–33202 Filed 10–23–80; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 79F–0411]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the food additive regulations to include the additional safe use of 2-(2′-hydroxy-5′-methylphenyl)benzotriazole as an antioxidant and/or stabilizer in polycarbonate resins intended for food-contact use. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective October 24, 1980, objections by November 24, 1980.

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

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

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of December 7, 1979 (44 FR 70568) announced that a petition (FAP 7B3323) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing to amend § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 2-(2′hydroxy-5′-methylphenyl)benzotriazole as an ultraviolet light absorber in polycarbonate resins.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010(b) by revising the name of the item "2-(2′-hydroxy-5′-methylphenyl)benzotriazole" and by adding a new limitation to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

Substances	*Limitations*
* * * * * * *	
2-(2′-Hydroxy-5′-methylphenyl)benzotriazole meeting the following specification: Melting Point 126°–132° C.	For use only: * * * * * 5. At levels not to exceed 0.5 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter. *Provided*, That the finished polycarbonate resins contact food only of types I, II, III, IV, V, VI–A, VI–B, VII, VIII and IX identified in table 1 of § 176.170(c) of this chapter and under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
* * * * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 24, 1980, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be indentified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 24, 1980.

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

Dated: October 17, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–33023 Filed 10–23–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

29 CFR Part 401

Meaning of Terms Used in This Subchapter; "Person" Redefined

AGENCY: Office of the Assistant Secretary for Labor-Management Relations, U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: A change in the language of 29 CFR 401.4 is necessary to reflect an amendment to the definition of "person" in the Labor-Management Reporting and Disclosure Act of 1959, as Amended, which was made by the Bankruptcy Reform Act of 1978.

EFFECTIVE DATE: This change is effective on October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin (202) 523–7373.

SUPPLEMENTARY INFORMATION: Section 320 of Title III of the Bankruptcy Reform Act of 1978, Public Law 95–598, amended the definition of "person" in Section 3(d) of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA), 29 U.S.C. 402(d). Section 3(d) was amended by striking out "bankruptcy" and inserting "cases under title 11 of the United States Code" in lieu thereof. The regulations implementing the LMRDA are amended accordingly.

Since this change is necessary in order that 29 CFR 401.4 reflect the amendment to Section 3(d) made by the Bankruptcy Reform Act, I find that it is unnecessary to issue a proposal and that there is good cause to make the amendment final and effective immediately.

Accordingly, § 401.4 of title 29 of the Code of Federal Regulations is hereby amended to read as follows:

§ 401.4 Person.

"Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code, or receivers.

(Secs. 3, 208, 301, 401, 402; 73 Stat. 520, 529, 530, 532, 534; 29 U.S.C. 402, 438, 461, 481, 482; Secretary's Order No. 9–77)

Signed in Washington, D.C. this 14th day of October 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc. 80–33283 Filed 10–23–80; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Approval of the Abandoned Mine Reclamation Plan From the State of Montana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM).

ACTION: Final rule: Approval of the Montana Abandoned Mine Plan.

SUMMARY: On June 16, 1980, the State of Montana submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Director of the Office of Surface Mining has determined that the Montana Abandoned Mine Reclamation Plan meets the requirements of SMCRA and the Abandoned Mine Land Reclamation Program. Accordingly, the Director of the Office of Surface Mining has approved the Montana Plan.

EFFECTIVE DATE: This approval is effective November 24, 1980.

ADDRESSES: Copies of the full text of the Montana plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020–15th Street, Denver, Colorado 80202.

The Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59601.

The Office of Surface Mining Reclamation and Enforcement, Room 153, 1951 Constitution Avenue NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles A Beasley, Assistant Director, Abandoned Mine Lands, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4012.

SUPPLEMENTARY INFORMATION:

General Background of Abandoned Mine Lands Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purpose of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State Reclamation Plan, demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 49947, October 25, 1978). Under those regulations, the Director is required to review the plan, solicit and consider comments of other Federal agencies and the public, and either approve or disapprove the plan. If the Director disapproves the State plan, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan by the Director, the State may submit to the Director on an annual basis, an application for funds to be expended in such State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests shall be made by the State and reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to Montana are found in 30 CFR Part 926.

Background on the Montana Abandoned Mine Plan Submission

On July 9, 1979, a cooperative agreement between the Montana Department of State Lands and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Montana Abandoned Mine Reclamation Plan would be assembled.

On February 13, 14, 19, 20 and 21, 1980, the Department of State Lands held public meetings in Great Falls, Billings, Helena, Plentywood and Miles City, Montana for comments on Montana's proposed Plan.

On June 16, 1980, the State of Montana submitted its proposed Abandoned Mine Reclamation Plan to OSM.

On June 26, 1980, and July 22, 1980, representatives of the Montana Department of State Lands and OSM met to discuss amendments and modificatons to the original plan.

On July 28, 1980, the State of Montana requested a 30-day extension of the 60-day review period to consider comments received on the proposed reclamation plan.

On July 28, 1980, the Montana Department of State Lands submitted revised pages to the Montana Reclamation Plan.

The revised pages contain several amendments and modifications to the original plan, as a result of public comments and the discussions between representatives of the Montana Department of State Lands and OSM. These amendments and modifications are specifically identified in the transmittal letter of Richard L. Juntunen to Stan Ausmus dated July 28, 1980. The necessary changes have been incorporated in the revised pages received on July 28, 1980, and therefore comply with the requirement that the policies and procedures to be followed by the agency be incorporated into the State Reclamation Plan.

Several of the amendments and modifications identified in the July 28, 1980 transmittal letter will be incorporated in the Department of State Lands Regulations by November 1, 1980. The specific amendments and modifications to be incorporated in the Department of State Lands Regulations are identified in the transmittal letter of John F. North to Art Abbs dated August 5, 1980.

The Director determined that these additions and revisions identified in the July 28, 1980 and August 5, 1980 transmittal letters were insignificant.

All of the documents mentioned above are available for public inspection at the offices of OSM listed above under "Addresses" and at the Office of the Department of State Lands listed above under "Addresses."

Notice of receipt of the submission initiating the Plan review was published June 20, 1980 (45 FR 49958–49959). The announcement requested public comments and scheduled a public hearing for July 21, 1980. On July 14, 1980, the public hearing was cancelled (45 FR 47166) as the State of Montana had provided adequate notice and opportunity for public participation in development of the reclamation plan and no unresolved controversies existed and there was insufficient interest as evidenced by no requests to hold the scheduled hearing. On August 12, 1980, (FR 53489–53490) a 30-day extension of the review period was announced to enable OSM and Montana officials to consider comments received on the proposed Reclamation Plan.

On October 9, 1980, the Regional Director and the Assistant Director for Abandoned Mine Lands Reclamation recommended to the Director that the Montana Reclamation Plan be approved.

The administrative record on the Montana Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020–15th Street, Denver, Colorado 80202.

Director's Findings

1. In accordance with Section 405 of SMCRA the Director finds that Montana has submitted a plan for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Director has determined, pursuant to 30 CFR 884.14, that:

(a) The Department of State Lands has the legal authority, policies and administrative structure necessary to carry out the proposed plan;

(b) the proposed plan meets all the requirements of 30 CFR Chapter VII Subchapter R;

(c) the State has an approved regulatory program; and

(d) the proposed plan is in compliance with all applicable State and Federal laws and regulations.

It should be noted that the Director disagrees with the position taken by Montana, on page 22 of their Reclamation Plan, regarding the State's intent not to place liens, where appropriate, on open cut or hard rock mined reclaimed lands (i.e., noncoal lands). In a letter dated July 28, 1980, from the Chief Legal Counsel, Montana Department of State Lands, the State maintained that both Section 408 of SMCRA and 30 CFR Part 882 of the Secretary's regulations do not authorize or require liens to be placed on noncoal mined lands.

This position is contrary to the intent of Congress and the specific language in the Act and the Secretary's regulations. Title IV of SMCRA establishes an abandoned mine land reclamation fund to finance the restoration of lands adversely affected by past mining operations and provides certain mechanisms which guard against the unnecessary depletion of the reclamation fund. To ensure that the Reclamation Fund would not be utilized in a manner which would quicken its depletion and to facilitate reclamation of abandoned lands, Congress empowered the Secretary or the State to take corrective actions in certain situations. Under section 407(a), 30 U.S.C. 1237(a), the Secretary or the State may enter and restore, without the owners consent, lands which have been adversely affected by past coal mining practices when such an entry and reclamation is in the public interest. Similarly, when it is necessary to acquire land so that successful coal reclamation activities may proceed, Section 407(c), 30 U.S.C. 1237(c), further vests in the Secretary or the State the authority to acquire land by condemnation. Lastly, Section 408, 30 U.S.C. 1238, directs the Secretary or the State to file a lien against reclaimed abandoned coal mined lands equal to the amount such property's market value was increased as a result of the coal reclamation activities.

In contrast, Section 409, U.S.C. 1239, the only provision within Title IV specifically authorizing the reclamation of noncoal mined lands, is less specific in nature. While it lacks specific protective and administrative provisions of its own, it does contain language in subsection (c) which incorporates the provisions applicable to abandoned coal mines, except those in Section 404, for all noncoal reclamation activities. OSM's research of the legislative history confirms that Congress' intent was not to set up different standards for reclaiming coal and noncoal lands but rather to utilize one system, first for coal, then for noncoal. Accordingly, through Section 409, the administrative and protective provisions related to coal activities are made applicable to noncoal.

It must be understood that the coal and noncoal provisions cannot be examined in a vacuum but rather must be interpreted and understood as elements of a total abandoned mine lands reclamation scheme created by Congress.

In regard to the purposes underlying Congress' direction that a lien be placed on reclaimed lands, the legislative history makes it clear that liens were to prevent windfall profits from accruing to private landowners and simultaneously protect the public interest by preventing depletion of the Reclamation Fund. *See* H.R. Rep. No. 218, 95th Cong., 1st Sess. 86 (1977); H.R. Rep. No. 896, 95th Cong., 2nd Sess. 88 (1976). There exists no

qualification of the phrase "reclaimed lands" and no dispositive reasons to assume Congress was speaking only to coal mined lands when it was well aware that the reclamation of noncoal mined lands would be paid for out of the same coffer. *See*, H.R. Rep. No. 218, 95th Cong., 1st Sess. 139 (1977); Conf. Rep. No. 493, 95th Cong., 1st Sess. 100 (1977). Moreover, when Representative Udall presented the Conference Report on Title IV of H.R. 2, he noted that both coal mined and noncoal mined lands were eligible for reclamation and later stated:

> Both private and public lands can be reclaimed; however expenditures on private lands under the Interior and State programs will result in a lien on the property for the increased value due to reclamation expenditures. Liens are to be payable to the federal reclamation fund. 123 Cong. Rec. H7585 (1977).

Thus, the overriding concern of Congress as regards liens was that a lien be placed against certain classes of reclaimed land to prevent the landowner from reaping a windfall profit, on both coal and noncoal mined lands.

This purpose would be contravened if States were to selectively enforce the lien provisions of Title IV against coal mined lands and prohibit or fail to place a lien against noncoal mined reclaimed land. Therefore, OSM believes that Congress intended that a lien attach under conditions delineated in Section 408 when reclamation activities increased a property's market value whether such activities took place on abandoned coal lands, under Section 403, 30 USC § 1233, or on other abandoned mine lands under Section 409 of SMCRA.

The Director finds that the Montana Reclamation Plan lacks the requisite legal authority to carry out certain noncoal related reclamation activities consistent with Section 409 of SMCRA and 30 CFR 882.13(a) because it lacks lien authority on noncoal projects. Accordingly, until the necessary authority is obtained, the Regional Director will not approve grants for noncoal reclamation activities where liens would be placed. Further the Director finds that all coal and noncoal reclamation projects must be achieved prior to approval of grants for the construction of public facilities in communities impacted by coal development. The lack of rights of entry and police power authority will not be considered as adequate justification to waive achievement of all remaining coal and noncoal projects prior to providing coal impact assistance.

It should also be noted that notwithstanding the limiting language on page 18 of the State Reclamation Plan, OSM is not limited to carrying out Federal reclamation projects on Federal lands through cooperative agreements with the State. AML reclamation projects on Federal lands may be carried out by the appropriate Federal land management agency or by interagency agreement with another Federal agency. All such projects, however, will be coordinated with OSM and the State of Montana.

3. The Director has solicited and considered the views of other Federal agencies having an interest in the plan, as required by 30 CFR 884.14(a)(2).

These agencies include the U.S. Geological Survey (USGS), the U.S. Army Corps of Engineers (COE), the Bureau of Land Management (BLM), the Bureau of Indian Affiars (BIA), the National Park Service (NPS), the U.S. Forest Service (USFS), and the U.S. Fish & Wildlife Service (FWS).

Disposition of Comments

The comments received on the Montana Abandoned Mine Plan during the public comment period raised the issues listed below, which were considered in the Director's evaluation of the Montana plan as indicated.

1. Several Federal Agencies commented that the Plan did not address coordination with Federal Agencies or the Federal Surface Management Agency.

The State of Montana has amended the plan to provide that all reclamation activities will be coordinated with appropriate Federal Agencies.

2. The USGS stated that the average stream flow data presented in the Montana Reclamation Plan was incorrect. Montana has amended its plan to show the correct stream flow data.

3. The USGS stated that stream sampling locations were inaccurate. Montana has amended its plan to show the correct stream sampling locations.

4. The BLM commented that in Section 884.13(c)(4) Policies and Procedures for Land Acquisition Management and Disposal—Coal—the words "necessary for reclamation activities" should be inserted after the "land or interest in land."

The State of Montana has amended the plan by inserting the words "for reclamation activities" after "when necessary" in paragraph three.

5. The BLM commented that the plan should state that acquired lands will be open to the public for hunting and fishing and general recreation without charge.

30 CFR 879.14 provides that "any user of land acquired under this part shall be charged a use fee." The Regional Director or State may waive the fee if found in writing that such a waiver is in the public interest.

6. The BLM commented that a request for public hearing pursuant to a Notice of Disposition of Reclaimed Lands under 30 CFR 879.15(a) should be accompanied by a justification statement.

Under 30 CFR 879.15(a) (1) & (2) a justification statement is not required. A public hearing will be held if requested.

7. The BLM commented that the plan should state that "agriculture and grazing lands can be sold."

Under 30 CFR 879.15(g) agriculture and grazing are not among the suitable uses listed for approval of disposal by public sale, but will be considered as included in the "commercial" land use category.

8. The NPS commented that the weighting factors and rationale for their derivation are not provided in the reclamation plan.

Under 30 CFR 884.13(c)(2) the State is required to provide "Reclamation project ranking and selection procedures." OSM has determined that the ranking and selection procedure in the Montana Reclamation Plan are adequate.

9. The USFS commented that a differentiation should be made between "mine dumps" and "spoil areas" in the discussion of general reclamation techniques on page 128. (Section 884.13(c)(1)).

Although these two terms are not synonomous the general reclamation techniques suggested by the State of Montana for these two problems are the same and adequately address the reclamation alternatives available for both problems.

10. The USFS commented that "sealing" is of questionable application as a technique for spoil pile and mine dump reclamation.

OSM finds "sealing" to be appropriate in certain site specific applications although not universally applicable. As such, it is properly listed as one of several general techniques to be considered.

11. The USFS recommended the addition of "Drainage to prevent spoil saturation" to the list of general reclamation techniques to be considered in problems of erosion and sedimentation.

The State of Montana has added "Surface Water Management" to the list for erosion and sedimentation control techniques. OSM considers this as inclusive of "drainage, diversion, settling ponds, etc."

12. The FWS commented that the plan is deficient in specifying how

coordination will be implemented to assure compliance with the Endangered Species Act as well as other Acts under the FWS.

The State of Montana has amended the plan by providing that the Montana Department of Fish, Wildlife and Parks will review each project. The U.S. Fish and Wildlife Service will be contacted regarding any chance of encounter with Rare and Endangered Species in the Project Ranking Matrix.

The OSM and the FWS have signed an MOU (6/10/80) that provides for formal consultation on those projects which may affect threatened or endangered species.

OSM is satisfied that provisions for addressing endangered species in the Montana plan are adequate.

13. The FWS commented that the plan does not show how the National Environmental Policy Act will be implemented or the concerns identified during the NEPA process resolved.

Compliance with NEPA is an OSM responsibility. It should be noted that an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR 886.

The State of Montana will provide input to the NEPA process through the information developed under the Montana Environmental Act.

14. The FWS commented that the plan should contain guidelines on how fish and wildlife values and goals for AML sites will be determined and maintained at selected sites.

Prior to a site actually being selected as a reclamation project, Montana will have to comply with Rules 26.4.1234, 26.4.124 and 26.4.224, "Reclamation Objectives and Priorities", Section 884.13(c)(2) and all other rules regarding project selection. OSM is satisfied that FWS's concerns will be addressed in the project selection process under the plan.

Additional Findings

The Director has determined that approval of the Montana Abandoned Mine Plan will be effective November 24, 1980 pursuant to the rulemaking requirements in 43 CFR Section 14.5(b)(5).

The Director has determined that the Montana Abandoned Mine Plan will not have a significant effect on the quality of the human environment because the decision relates to policies, procedures and organization of the State's Abandoned Mine Plan. Therefore, under the Department of Interior Manual 516.2.3(A)(1), the Director's decision on the Montana Plan is categorically excluded from the National Environmental Policy Act process. As a result, no Environmental Assessment or Environmental Impact Statement has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjuction with the implementation of Title IV. Also an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

The Director has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14 and, therefore, no regulatory analysis has been prepared on this action.

Dated: October 15, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

Part 926 is amended by adding § 926.20 to read as follows:

PART 926—MONTANA

§ 926.20 Approval of the Montana Abandoned Mine Reclamation Plan.

The Montana Abandoned Mine Reclamation Plan as submitted on June 16, 1980, and amended on July 28, 1980, is approved, effective November 24, 1980. Copies of the approved program are available at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202

The Department of State Lands, Reclamation Division, 1625 Eleventh Avenue, Helena, Montana 59601

Office of Surface Mining Reclamation and Enforcement, Room 153, 1951 Constitution Avenue NW., Washington, D.C. 20240.

[FR Doc. 80-33153 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9 FRL-1639-2]

Rule Revisions for Five Air Pollution Control Districts in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove revisions to rules of the Fresno County, Kern County, Lake County, Monterey Bay Unified and Siskiyou County Air Pollution Control Districts (APCDs) submitted by the Governor's designee for incorporation into the California State Implementation Plan (SIP). The intended effect of this action is to update rules and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 24, 1980.

ADDRESS: A copy of the revisions is located at: The Office of the Federal Register, 1100 "L" Street NW., Room 8401, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. Attn.: Douglas Crano, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On January 2, 1979 the California Air Resources Board (ARB) submitted to EPA revisions to the rules of five APCDs for inclusion in the California SIP. Revised rules which are being acted upon by this notice include the following subjects: Equipment Breakdown, Agricultural Burning, Emergency Variances, and Open Fires.

A list of the rules being considered by this action can be found in the Notice of Proposed Rulemaking published on May 23, 1980 (45 FR 34920). As described in the Notice of Proposed Rulemaking, the rules were evaluated and found consistent with 40 CFR Part 51 requirements with certain exceptions. A 60 day public comment period was provided. As discussed below, comments were received from the Siskiyou County APCD, the Lake County APCD, and the ARB concerning rules DPA proposed to disapprove in the May 23 notice.

Comment: The Siskiyou County APCD noted that the District was in the process of revising its agricultural burning regulations and that the amended regulations would be submitted to the ARB and to EPA as an SIP revision.

Response: As proposed, EPA is taking final action to disapprove Rule 4.3, *Open Fires*, of the Siskiyou County APCD since it is inconsistent with 40 CFR Part 51 requirements. However, upon receipt of the amended agricultural burning rules, EPA will review and incorporate into the SIP any approvable rules.

Comment: The Lake County APCD questioned the need for a control strategy evaluation of Section 435, *Exceptions* (open agricultural burning) since the District is an attainment area for particulates. Further, the District stated that a control strategy should not be required since only a small amount of material is consumed under this rule compared to other permitted burning activities within the District.

In addition, regarding EPA's proposed disapproval of Table V, *Concentrations and Methods*, the APCD argued that the table should be approved since it provides that the equivalent measurement technique must be approved by ARB "which must also obtain EPA approval".

Response: Although the District is an attainment area for particulates, a control strategy analysis is required in order to assure that the potential emissions increase due to open burning will not interfere with maintenance of the National Ambient Air Quality Standards (NAAQS). EPA is therefore taking final action to disapprove Section 435.

Exceptions. EPA agrees that Table V would be approvable if it stated that any equivalent measurement technique must be approved by ARB "which must also obtain EPA approval." However, the rule does *not* require EPA approval. Thus, EPA is taking final action to disapprove Table V, *Concentrations and Methods.*

Comment: The ARB states that attainment and maintenance of the NAAQS are not compromised by the Fresno County and Kern County APCDs' emergency variance rules. Requesting approval of the rule, the ARB points out that before a control officer is able to schedule an emergency variance hearing he or she has already determined that the NAAQS have not been endangered pursuant to the equipment breakdown rules.

Response: In order for a malfunctioning source to continue operation for 24 hours while exceeding an emission limit, the equipment breakdown rules require the APCD to determine that the NAAQS will not be endangered. However, the determination that a source is not violating the NAAQS during the first 24 hours of malfunction does not provide sufficient assurance that the NAAQS will not be violated during a subsequent emergency variance period of up to 15 days. Due to the lack of sufficient NAAQS assurance in the emergency variance rule, EPA is taking final action to disapprove Rule 110(B), *Equipment Breakdown*, and Rule 519, *Emergency Variance*, of the Fresno County APCD, and Rule 111(b), *Equipment Breakdown*, and Rule 519, *Emergency Variance*, of the Kern County APCD.

It is the purpose of this notice to approve the rule revisions listed in the January 2, 1979 submittal, except for the rules discussed above, which are disapproved.

The Environmental Protection Agency has determined that this document is not a "significant" regulation and does not require preparation or a regulatory analysis under Executive Order 12044.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: October 20, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Office of Federal Register on July 1, 1980.

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

Subpart F—California

1. Section 52.220, paragraphs (c)(47)(ii)–(vi), are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(47) * * *

(ii) Fresno County APCD.

(A) New or amended Rules 110, 416.1, and 519.

(iii) Kern County APCD.

(A) New or amended Rules 111, 301, and 519.

(iv) Lake County APCD.

(A) New or amended Rules 435, and 436, and Tables V and VI.

(v) Monterey Bay Unified APCD.

(A) Amended Rule 301.

(vi) Siskiyou County APCD.

(A) Amended Rule 4.3.

* * * * *

2. Section 52.236, paragraph (d) is revised to read as follows:

§ 52.236 Rules and regulations.

* * * * *

(d) The following rules or portions of rules are disapproved since they contain provisions which are inconsistent with 40 CFR Part 58, Ambient Air Quality Surveillance.

(1) Lake County APCD.

(i) Section 224, *Equivalent Method*, and Table V, *Table of Standards, Applicable Statewide*, submitted on February 10, 1977.

(ii) Table V, *Concentrations and Methods*, submitted on January 2, 1979, and Table V, submitted on February 10, 1976 and previously approved at 42 FR 42224.

* * * * *

3. Section 52.271, paragraph (b) is added as follows:

§ 52.271 Malfunction regulations.

* * * * *

(b) The following regulations are disapproved since they lack explicit provisions to assure that that NAAQS will not be exceeded while equipment breakdown periods are in effect.

(1) Fresno County APCD.

(i) Rules 110(B), *Variance Required*, and 519, *Emergency Variance*, submitted on January 2, 1979.

(2) Kern County APCD.

(i) Rules 111 (b), *(Equipment Breakdown)*, and 519, *Emergency Variance*, submitted on January 2, 1979.

* * * * *

4. Section 52.273, paragraph (b)(3)(v)(B) is added and paragraph (b)(9) is revised as follows:

§ 52.273 Open burning.

* * * * *

(b) * * *

(3) * * *

(v) * * *

(B) Rule 435, *(Exception)*, submitted on January 2, 1979.

* * * * *

(9) Northeast Plateau Intrastate AQCR.

(i) Shasta County APCD.

(A) Rule 2.8, *Exceptions to Open Burning*, is disapproved and the previously approved Rule 2.8 submitted on July 19, 1974, and July 22, 1975, remains in effect.

(ii) Siskiyou County APCD.

(A) Section 2 of Rule 4.3, *Open Fires*, submitted on January 2, 1979.

* * * * *

[FR Doc. 80-33287 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-26-M

---

40 CFR Part 52

[A-5-FRL 1641-7]

Approval of Illinois Sulfur Dioxide State Implementation Plan for Commonwealth Edison Kincaid Station

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On December 26, 1979 (44 FR 76311), USEPA proposed approval of an emission limitation of 105,162 lbs of sulfur dioxide (SO_2) per hour for Commonwealth Edison's Kincaid generating station in Christian County, Illinois. Interested persons were given until January 25, 1980, to comment. One comment was received. The purpose of this notice is to discuss the comment received and to announce USEPA's final rulemaking action approving this revision to the Illinois State Implementation Plan (SIP).

EFFECTIVE DATE: This final rulemaking becomes effective on November 24, 1980.

ADDRESSES: Copies of the SIP revision, public comment on the Notice of Proposed Rulemaking (44 FR 76311), and USEPA's evaluation and response to comments are available for inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On December 14, 1979, the Illinois Pollution Control Board (IPCB) adopted changes to Illinois' sulfur dioxide Rule 204 which revises emission limitations for fuel combustion emission sources located outside of the Chicago, Peoria, and St. Louis major metropolitan areas (MMA's). Included in the revision were proposed rules 204(c)(1)(C), which eliminates the federally approved 6.0 pounds (lbs) SO_2 per million BTU (MMBTU) maximum sulfur dioxide emission limitation for large fuel combustion emission sources outside the MMA's; and rule 204(e)(1), which establishes a maximum hourly emission limitation for fuel combustion emission sources outside the MMA's. The State of Illinois did not conduct or submit air quality impact studies in support of the proposed revision to Rule 204, and thus, the submittal did not adequately demonstrate protection of the National Ambient Air Quality Standard (NAAQS). Therefore, on December 26, 1979 (44 FR 76308), USEPA proposed approval of the revisions for only those specific sources for which the rules do *not* represent a relaxation of the federally enforceable SIP; and disapproval of the rules for all other sources until such time as the State submits an air quality study which demonstrates that for the source(s) in question, the SIP revision will not cause or contribute to a violation of the NAAQS. USEPA's rulemaking action on Rule 204 was final on September 22, 1980 (45 FR 62804).

On September 19, 1979, the State of Illinois submitted an air quality study to USEPA on behalf of the Commonwealth Edison Company for the Kincaid generating station. The study demonstrated that emissions allowed under Illinois Rule 204(e)(1) would not cause or contribute to violation of the NAAQS. USEPA reviewed the air quality impact study and determined that the study was adequate to support a SIP revision. Therefore, on December 26, 1979 (44 FR 76311), USEPA proposed approval of the SO_2 emission limitation of 105,162 lbs SO_2/hour for the Commonwealth Edison Company's Kincaid generating station.

The Kincaid generating station is located in a rural area of Christian County, Illinois. The area is classified as attainment for SO_2. The station has two coal-fired units with a combined operating capacity of 1319 megawatts. The combined emissions are discharged through a single 187.44 m stack which replaced two 152.40 m stacks on July 1, 1979. The GEP stack height is 189.35 m based on the GEP stack height formula.

On June 24, 1980, (45 FR 42279), USEPA announced a revision to its stack height policy in the **Federal Register** on the Cleveland Electric Illuminating Company. The revised policy requires those sources seeking credit for raising existing stacks to provide a fluid modeling or field study demonstration that the increase in stack height is necessary to avoid excessive ground level concentrations due to downwash, wakes and eddies. USEPA performed an air quality modeling analysis using the 152.40 m stack height of the old stack and the stack design parameters associated with the new stack (187.44 m). The modeling analysis demonstrated that no stack height credit was necessary to demonstrate attainment of the NAAQS with the revised emission limitation. Therefore, fluid modeling is not required to support the increase in stack height credit.

In the notice of proposed rulemaking (44 FR 76311), USEPA solicited public comment on the proposed SIP revision and on USEPA's proposed rulemaking action. One comment was received from a public interest group. The group proposed that Kincaid meet a 7.0 lbs SO_2/MMBTU emission limitation based on the 24-hour average sulfur content sample.

USEPA Response and Final Determination: The USEPA proposed to approve an emission limitation of 105,162 lbs SO_2/hr (8.61 lbs SO_2/MMBTU) for the Kincaid Station, based on a modeling analysis performed using a USEPA reference model. The analysis demonstrates that the proposed emission limitation is sufficient to attain the NAAQS. Further, USEPA has determined that fluid modeling is not required to support the increase in stack height credit.

Therefore, USEPA approves the site-specific emission limitation of 105,162 lbs SO_2/hr (8.61 lbs SO_2/MMBTU) for the Kincaid generating station based on revised Rule 204(e)(1).

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of October 24, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedure requirements of Executive Order 12044.

This Notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: October 8, 1980.

Douglas Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1980.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.720 is revised by adding paragraph (c)(24) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(24) On September 19, 1979, the State of Illinois submitted a revision to Rule 204(e)(1) for the Commonwealth Edison Company. The revision approves an emission limitation of 105,162 lbs SO_2/hour for the Kincaid Generating Station in Christian County, Illinois.

[FR Doc. 80-33286 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5929]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Florida	Polk	Fort Meade, city of	120264A	June 13, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Jan. 16, 1974 Jan. 30, 1976	Nov. 5, 1980.
Illinois	Cook	Flossmoor, village of	170091C	Dec. 15, 1972, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Apr. 6, 1973 Apr. 28, 1978	Do.
Do	Lake	Highland Park, city of	170367A	Apr. 5, 1973, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Oct. 26, 1973 Jan. 16, 1976	Do.
Kentucky	Campbell	Newport, city of	210039A	Mar. 26, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Feb. 1, 1974	Do.
Louisiana	Lafayett	Carencro, town of	220103	May 10, 1977, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Mar. 26, 1976	Do.
Massachusetts	Middlesex	Billerica, town of	250183A	Aug. 18, 1972, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Sept. 20, 1974 Dec. 24, 1976	Do.
Missouri	Cape Girardeau	Cape Girardeau, city of	290458A	May 14, 1974, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	May 3, 1974 Oct. 17, 1975	Do.
New York	Monroe	Henrietta, town of	360419B	Mar. 23, 1973, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Jan. 16, 1974 June 3, 1977 Apr. 23, 1976	Do.
Do	St. Lawrence	Ogdensburg, city of	360707A	June 11, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	July 26, 1974 April 16, 1976	Do.
North Carolina	Alamance	Haw River, town of	370003	Aug. 25, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	July 18, 1975	Do.
Do	do	Mebane, town of	370390	Sept. 26, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.		Do.
Ohio	Warren	Franklin, city of	390556A	Sept. 7, 1973, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Nov. 16, 1973 Aug. 8, 1975	Do.
Do	Washington	Lower Salem, village of	390570A	Feb. 24, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Aug. 30, 1974	Do.
Pennsylvania	Berks	Maxatawny, township of	421381	Dec. 3, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Nov. 22, 1974	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Chester	Schuylkill, township of	421489A	Jan. 30, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Oct. 25, 1974 Oct. 3, 1975	Do.
Rhode Island	Washington	Richmond, town of	440031A	July 7, 1975, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	May 31, 1974 Dec. 10, 1976	Do.
South Carolina	Richland	Forest Acres, city of	450174A	July 19, 1974, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	June 7, 1974 Sept. 26, 1975	Do.
Tennessee	Smith	South Carthage, town of	470183B	Aug. 11, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Aug. 23, 1974 Aug. 18, 1978	Do.
Texas	Travis	Lakeway, village of	481303	June 27, 1977, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.		Do.
Virginia	Henry	Unincorporated areas	510078	Oct. 18, 1973, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Nov. 22, 1974	Do.
Washington	Callalam	Unincorporated areas	530021	Nov. 27, 1973, emergency, Nov. 5, 1980, regular, Nov. 5, 1980, suspended.	Jan. 24, 1975 Apr. 4, 1978	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

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

Issued: October 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32862 Filed 10-23-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Alabama	City of Birmingham, Jefferson County (FEMA-5835).	Village Creek	Just upstream of Avenue "W"	*523
			Just upstream of 16th Street	*551
			Just upstream of Vanderbuilt Rd.	*578
			Just downstream of 85th Street	*651
		Fivemile Creek (Fivemile Ck. Basin).	Confluence of Tarrant Springs Branch	*591
			Just downstream of Point Road	*708
		Tarrant Springs Branch	Just downstream of Killough Road	*636
			Just downstream of Carson Road	*712
		Dry Creek (Fivemile Ck. Basin)	Just downstream of Old Springville Road	*748
		Unnamed Creek 23	Just downstream of Lawson Road	*617
		Camp Branch	Just downstream of Birmingham Road	*509
		Black Creek (Village Ck. Basin)	Just upstream of Old Pratt Highway	*521
			Just upstream of U.S. 78	*536
			Just downstream of Cherry Avenue	*544
		Unnamed Creek 31	Just upstream of Louisiville and Nashville, Railway	*581
			Just upstream of Airport Highway	*599
		Unnamed Creek 32	Just upstream of 51st Street	*606
			Just downstream of 3rd Avenue	*629
			Just downstream of Brussels Avenue (66th Street)	*653

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Unnamed Creek 34	Just upstream of the lower road entering Bays Industrial School	*678
		Valley Creek	Just downstream of Seaboard Coastline Railroad	*511
			Just downstream of 18th Street southwest	*541
		Unnamed Creek 48	Just upstream of Cotton Avenue	*562
			Just upstream of Southern Railway	*573
			Just downstream of 6th Avenue S.W.	*576
		Unnamed Creek 49	Just downstream of 3rd St. South	*575
			Just downstream of 6th Avenue South	*588
		Nabors Branch	Just downstream of 24th Street	*530
			Just upstream of Mims Street	*550
			Just upstream of 16th Way	*562
Maps available for inspection at City Hall, 710 North 20th Street, Birmingham, Alabama 35203.				
Alabama	City of Carbon Hill, Walker County (FEMA-5835).	Lost Creek	Just downstream of U.S. Highway 78	*403
			Just upstream of County Road 63 (Pine Street)	*414
Maps available at City Hall, Maple Street and Second Avenue, Carbon Hill, Alabama 35549.				
Alabama	City of Cordova, Walker County (FEMA-5835).	Cane Creek (Backwater from Mulberry Fork).	Just upstream of County Road 22	*280
			Just upstream of County Road 61	*280
		Mulberry Fork	Just downstream of County Road 30	*280
			Just upstream of St. Louis San Francisco Railroad Crossing	*280
Maps available for inspection at City Hall, 115 Jasper Street, Cordova, Alabama 35550.				
Alabama	City of Montevallo, Shelby County (FEMA-5835).	Shoal Creek	Just upstream of Main Street	*387
			Just upstream of Overland Road	*411
		King Creek	Approximately 160 feet downstream of County Highway 204	*387
		Spring Creek	Confluence of Spring Creek and Dry Creek	*415
		Dry Creek	Approximately 100 feet downstream of County Highway 12	*428
Maps available for inspection at City Hall, 53 South Main Street, Montevallo, Alabama 35115.				
Alabama	Town of Walnut Grove, Etowah County (FEMA-5835).	Locust Fort of Black Warrior River.	Just upstream of U.S. Highway 278	*827
		Payne Branch	Just upstream of U.S. Highway 278	*827
			Just upstream of Old Asheville Rd	*841
Maps available for inspection at City Hall, Blountsville-Gadsden Road, Walnut Grove, Alabama 35900.				
California	Lafayette (City), Contra Costa County (FEMA-5841).	Los Trampas Creek	Confluence of Reliez Creek with channel	*204
			Upstream side of the intersection of Moraga Boulevard and the channel near Carol Lane.	*233
			Upstream side of the intersection of Moraga Boulevard and the channel near Third Street.	*268
			Intersection of Private Bridge at Santa Maria Way and the channel	*309
			Upstream side of the intersection of Glenside Drive and the channel	*376
			Approximately 80 feet downstream of the intersection of St. Marys Road and channel.	*425
			Intersection of the channel and the southern corporate limits	*491
		Grizzly Creek	Intersection of Silverado Drive and channel	*418
			Downstream side of Rohrer Drive over channel	*460
			Upstream side of the intersection of Bradbury Drive and channel	*507
			Intersection of the channel and the eastern corporate limits	*577
		Reliez Creek	Confluence with Las Trampas Creek	*204
			Upstream side of the intersection of Condit Road and channel	*225
			Intersection of Stanley Boulevard and channel	*317
			Intersection of Quandt Road and channel	*355
			Upstream side of the intersection of Hawk Road and channel	*421
			Intersection of northern corporate limits and channel	*552
		Lafayette Creek	Center of Second Street crossing the channel	*274
			Intersection of Chestnut Street and Dewing Avenue	*1
			Intersection of Hough Avenue and Lafayette Circle	*1
			Approximately 100 feet south along Dewing Avenue from its intersection of Walnut Street.	*2
			Upstream side of the intersection of Mountain View Drive and channel	*318
			Intersection of Mt. Diablo Boulevard and channel	*359
		Hidden Valley Creek	Confluence of Lafayette Creek and channel	*2
			Northwest end of Paulson Court	*438
			Intersection of Acalanes Road and channel	*1
			Intersection of Hidden Valley Road and channel	*480
		Happy Valley Creek	Confluence of Lafayette Creek and channel	*284
			Upstream side of Mt. Diablo Boulevard	*2
			Upstream side of the intersection of Deer Hill Road and channel	*342
			Upstream side of the intersection of Happy Valley Road and channel	*421
			Intersection of Valley View Road and channel	*518
			Upstream side of the intersection of Cricket Hill Road and channel	*621
		Jonas Hill Creek	Intersection of First Street and School Street	*288
			Intersection of St. Marys Road and channel	*302
			Intersection of Powell Drive and channel	*377
Maps available for inspection at 251 Lafayette Circle, Lafayette, California.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
California	Los Angeles (City), Los Angeles County (FEMA-5835).	Weldon Canyon	110 feet upstream from center of Golden State Freeway Bridge	*1,345
		Kagel Canyon	100 feet upstream from center of Osborne Street	*1,130
			Intersection of Kagel Canyon and city corporate limits	*1,154
		Rustic Canyon	400 feet east from the intersection of Sunset Boulevard and Will Rogers State Park Road.	*201
			30 feet upstream from center of Sunset Boulevard	*235
		Shallow Flooding (Sheet Flow)	At intersection of Third Street and Fairfax Avenue	#1
			At intersection of Exposition Boulevard and LaBrea Avenue	#1
			At intersection of Third Street and LaCienega Boulevard	#2
			At intersection of Lemarsh Street and Canoga Boulevard	#2
			At intersection of Prosser Avenue and Tennessee Avenue	#3
			At intersection of Foothill Boulevard and Tujunga Valley Street	#3
		Shallow Flooding (ponding)	At the intersection of Denker Avenue and 205th Street	*43
			At intersection of Topham Street and Oxnard Avenue	*756
		Shallow Flooding (Deep Ponding).	50 feet from the intersection of Santa Susanna Place and Canyon Place.	*909
			100 feet east from the intersection of Rexbon Road and Mayerling Street.	*1,275
Maps available at City Engineer's Office, 200 North Street, Los Angeles, California.				
California	Los Angeles County (Unincorporated Areas) (FEMA-5841).	Amargosa Creek	30 feet upstream from the intersection of Amargosa Creek and center of 90th Street West.	*3,122
		Liberty Canyon	Outlet of concrete channel at upstream end of Liberty Canyon	*730
		Triunfo Canyon	380 feet upstream from center of Sherwood Drive	*832
			180 feet upstream from center of Lindero Canyon Road	*849
		Zuma Canyon	120 feet upstream from center of Pacific Coast Highway	*21
			40 feet upstream from center of upstream Bensall Road crossing	*114
		Medea Creek	Intersection of Medea Creek and center of Mulholland Highway	*734
			Intersection of Medea Creek and center of Canwood Street	*852
		Ramirez Canyon	300 feet upstream from center of Pacific Coast Highway	*61
		Lindero Canyon	130 feet downstream from center of Agoura Road	*838
			30 feet upstream from center of Reyes Adobe Road	*1,014
		Dry Canyon	Intersection of Dry Canyon and center of Cold Canyon Road	*1,089
		Escondido Canyon	130 feet upstream from center of Pacific Coast Highway	*14
			50 feet downstream from center of upstream Escondido Drive crossing.	*901
		Garapito Creek	At confluence with Santa Maria Creek	*974
			100 feet downstream from center of Paradise Lane	*1,040
		Old Topanga Canyon	355 feet upstream from center of downstream Bonnell Drive crossing.	*962
			35 feet upstream from center of Old Topanga Canyon Road	*998
		Malibu Creek	1,600 feet upstream from center of Pacific Coast Highway	*15
			Intersection of Malibu Creek and center of Mariposa De Oro	*28
		Topanga Canyon	Intersection of Topanga Canyon and center of Pacific Coast Highway.	*17
			40 feet upstream from center of Summit Road	*869
		Kagel Canyon Channel	50 feet downstream from Center of East Trail	*1,183
			25 feet upstream from center of Blue Sage Drive	*1,412
		Las Flores Canyon	200 feet upstream from center of Pacific Coast Highway	*20
			Intersection of Las Flores Canyon and center of Las Flores Canyon Road.	*132
		Cold Creek	Intersection of Cold Creek and center of Piuma Road	*467
			Intersection of Cold Creek and center of Camino Colibri	*557
		Dark Canyon Creek	490 feet downstream from center of Cold Canyon Road	*558
			Intersection of Dark Canyon Creek and center of Wild Rose Drive	*651
		Trancas Canyon Creek	40 feet upstream from center Pacific Coast Highway	*14
		Stokes Canyon Creek	Intersection of Stokes Canyon Creek and center of Mulholland Highway.	*623
		Lobo Canyon Creek	35 feet upstream from center of the downstream Lobo Canyon Road crossing.	*807
			40 feet downstream from center of the upstream Lobo Canyon Road crossing.	*860
		Las Virgines Creek	120 feet downstream from center of Rondell Street	*747
			Intersection of Las Virgines Creek and center of Parkmor Road	*792
		Cheseboro Canyon Creek	170 feet upstream from center of Driver Avenue	*908
		Palo Camado Creek	35 feet upstream from center of Backins Avenue	*963
			Intersection of Palo Camado Creek and Fairview Drive	*992
		Hacienda Creek	60 feet downstream from center of Tetley Street	*431
		Unnamed Creek	Serra Retreat Area—Intersection of Unnamed Creek and center of Cross Creek Road.	*45
		Santa Maria Creek	Intersection of Santa Maria Creek and center of Topanga Canyon Boulevard.	*919
		Lopez Canyon	1,400 feet north of intersection of Lopez Canyon Road and Glad Street.	*1,230
			120 feet west of intersection of Bailey Road and Lopez Canyon Road.	*1,300
		Mill Creek	170 feet upstream from center of Angeles Forest Highway	*3,055
		Shallow Flooding (Sheet Flow)	Intersection of Melrose Avenue and Huntley Drive	#1
			Intersection of 10th Street West and Avenue L	#1
			100 feet southwest from the intersection of Avenue M and 50th Street West.	#2
			Intersection of Dry Canyon and center of San Francisquito Road	#2
			Intersection of Haskell Canyon and center of upstream Highline Road crossing.	#3

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Acton Canyon—Intersection of Crown Valley Road and Acton Avenue	#3
		Shallow Flooding (Ponding)	Intersection of Riviera Road and Vicki Drive	*146
			Intersection of Cornell Road and Malibu Lake	*734
			On the east side of Antelope Valley Freeway between Avenue G Avenue H.	*2,312
		Shallow Flooding (Deep Ponding)	Vicinity of Santa Susanna Pass Road and Santa Susanna Avenue—2,300 feet west of the intersection of Santa Susanna Avenue and Southern Pacific Railroad.	*1,031
Maps available at 500 West Temple, Los Angeles, California.				
Connecticut	Woodbridge, Town, New Haven County (Docket No. FEMA-5778).	Bladens River	Downstream Corporate Limits	*232
			300' downstream of Acorn Hill Road	*238
			Upstream of Acorn Hill Road	*241
			Upstream of Acorn Hill Road	*246
			2,000' upstream of Acorn Hill Road	*250
			Downstream of Bethmour Road (Dam)	*260
			Upstream of Bethmour Road (Dam)	*266
			Private Drive	*268
			100' upstream of Private Drive	*273
			Downstream of Dam	*276
			Upstream of Dam	*281
			530' upstream of Dam	*290
			1,030' upstream of Dam	*300
			1,530' upstream of Dam	*310
			755' downstream of Sanford Road	*320
			420' downstream of Sanford Road	*330
			75' downstream of Sanford Road	*340
			Sanford Road	*341
			60' upstream of Sanford Road	*349
			Route 67 (Seymour Road)	*351
		Wepawaug River	Downstream Corporate Limits	*195
			2,500' downstream of Ansonia Road	*198
			Downstream of Ansonia Road	*207
			Upstream of Ansonia Road	*210
			Racebrook Road	*211
			2,150' upstream of Racebrook Road	*215
			Private Road (Downstream)	*219
			Private Road (Upstream)	*220
			350' upstream of Private Road	*224
			1,150' downstream of State Route 313	*225
			State Route 313 (Downstream)	*232
			State Route 313 (Upstream)	*238
			750' upstream of State Route 313	*245
			425' downstream of State Route 114	*253
			State Route 114	*255
		Race Brook	Downstream Corporate Limits	*172
			1,320' downstream of State Route 15	*180
			State Route 15 (Downstream side)	*191
			365' upstream of State Route 15	*194
			775' upstream of State Route 15	*202
			Golf Course Road (Downstream)	*208
			300' upstream of Golf Course Road	*212
			800' upstream of Golf Course Road	*214
			Dam (Downstream)	*227
			Dam (Upstream)	*232
			1,850' downstream of Ansonia Road	*242
			Ansonia Road (Downstream side)	*255
			Manville Road (Downstream)	*257
			Manville Road (Upstream)	*260
			State Route 313	*271
Maps available at the Office of the Town Clerk, Woodbridge, Connecticut.				
Delaware	Wyoming, Town, Kent County (Docket No. FEMA-5843).	Isaac Branch	Downstream Corporate Limits	*21
			Downstream of Layton Avenue	*25
			Downstream of Conrail	*26
			Downstream of West Railroad Avenue	*27
		Wyoming Lake	Shoreline within community	*30
Maps available at the Town Hall, Main Street, Wyoming, Delaware.				
Illinois	(V), Algonquin, McHenry, and Kane Counties (Docket No. FEMA-5843).	Fox River	At downstream corporate limits	*733
			Just downstream of Chicago and North Western Railroad	*733
			Approximately 200 feet downstream of Algonquin Dam	*734
			At upstream corporate limits	*735
Maps available for inspection at Village President's Office, Village Hall, 2 South Main Street, Algonquin, Illinois 60102.				
Illinois	(V), Bartonville, Peoria County (Docket No. FEMA-5841).	Illinois River	At the southern corporate limits	*459
			At the northern corporate limits	*459
		Unnamed Tributary of Kickapoo Creek.	Mouth at Kickapoo Creek	*450
			Just upstream of Treasure Street	*456
			Just downstream of Roosevelt Street	*465

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			About 370 feet upstream of Roosevelt Street	*474
			At the corporate limits, about 300 feet downstream of the Lauderback Park Access Road.	*501
			At the upstream corporate limits	*521
Maps available for inspection at the Village Hall, 5912 South Adams Street, Bartonville, Illinois 61607.				
Illinois	Caseyville (Villiage), St. Clair County (FEMA-5843).	Canteen Creek	Approximately 625 feet north along County Road from its intersection with the northernmost Conrail railroad tracks.	*430
			Upstream side of Conrail over the channel	*441
			At the northeasternmost corporate limits	*450
		Little Canteen Creek	Approximately 180 feet upstream of the northernmost end of Harding Ditch.	*427
			Northern corner of intersection of Long Street and Reynolds Street	*440
			Intersection of O'Fallon Street and Cove Street	*446
			Intersection of O'Fallon Street and Center Drive	*454
			Approximately 1,250 feet southeast along O'Fallon Street from its intersection with the Chessie System.	*466
			Approximately 320 feet east along O'Fallon Street from its intersection with Circle Drive.	*472
		Shallow Flooding	Approximately 650 feet southeast along Forest Boulevard from its intersection with Black Lane and Caseyville Road.	*419
			Intersection of Country Side Drive with 7th Street	*419
			Intersection of Botanical Avenue with Glenwood Avenue	*419
			Approximately 1,000 feet north of Harding Ditch along northwesternmost corporate limits.	*415
			200 feet north of Garden Drive approximately 1,000 feet west of its intersection with Bluff Road.	*423
Maps available for inspection at 10 West Morris Street, Caseyville, Illinois.				
Illinois	(V), Cherry Valley, Winnebago County (Docket No. FEMA-5843).	Kishawaukee River	At southwestern corporate limits	*724
			About 100 feet downstream from the upstream corporate limit	*727
		Madigan Creek	At downstream corporate limits	*754
			At upstream corporate limits	*767
Maps available for inspection at the Village President's Office, Village Hall, 101 East State Street, Cherry Valley, Illinois 61016.				
Illinois	(V), East Dundee, Kane Conty (Docket No. FEMA-5843).	Fox River	Downstream corporate limit	*717
			Upstream corporate limit	*720
Maps available for inspection at the Village President's Office, 120 Barrington Avenue, East Dundee, Illinois 60118.				
Illinois	(V), North Aurora, Kane County (Docket No. FEMA-5841).	Fox River	About 3,500 feet downstream of East-West Tollway	*640
			Just downstream of State Street	*645
			Just upstream of North Aurora Dam	*651
			At upstream corporate limit	*651
Maps available for inspection at the Village Clerk's Office, 25 East State Street, North Aurora, Illinois 60542.				
Indiana	(Uninc.), Delaware County, (Docket No. FEMA-5848).	Mississinewa River	Approximately 1.2 miles downstream of Center Road North	*872
			Just upstream of State Route 3	*873
			Just upstream of the upstream Eaton corporate limits	*891
			Just downstream of 850 North Road	*903
			Approximately 2.2 miles downstream from Dowden Avenue	*927
			Approximately 100 feet upstream of Dowden Avenue	*931
			At the east county boundary	*936
		Swearengen Ditch	At Eaton corporate limits	*892
			Approximately 250 feet upstream 175 East Road	*892
			Just downstream 900 North Road	*901
		Holdren Ditch	Just downstream Eaton Wheeling Road	*884
			Approximately 600 feet upstream Eaton Wheeling Road	*887
			Approximately 2,000 feet upstream Eaton Wheeling Road	*888
			Just downstream 1,100 North Road	*898
			Just upstream 1,100 North Road	*903
			Approximately 4,350 feet upstream 1,100 North Road	*908
		Halfway Creek	At Albany upstream corporate limits	*934
			Just downstream State Route 167	*935
			Just upstream State Route 167	*937
			At east county boundary	*939
		Rees Ditch	Mouth at Mississinewa River	*894
			Just upstream 350 East Road	*894
		Campbell Creek	Mouth at Mississinewa River	*916
			Just upstream 514 North Road	*920
			Just upstream 525 East Road	*926
			Just upstream 425 North Road	*933
			Just downstream Norfolk and Western Railway	*943
			Just upstream Norfolk and Western Railway	*949
		Muncie Creek	Just upstream of Muncie corporate limits	*944
			Approximately 1,150 feet upstream Indiana Avenue	*945
			About 2,400 feet upstream U.S. Route 35	*953
		York Prairie Creek	Mouth at White River	*882
			Just downstream 100 South Road	*893

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just downstream 50 South Road	*896
			Just downstream Division Road	*898
			Just upstream Division Road	*900
			Just upstream 600 West Road	*903
			Just downstream 500 West Road	*905
			Just upstream 500 West Road	*908
			Just upstream 400 West Road	*913
		Killbuck Creek	Just upstream of 1,000 West Road	*872
			Approximately 1,100 feet downstream Norfolk and Western Railway	*876
			Just upstream Interstate 69	*879
			Just downstream 600 West Road	*889
			Just downstream Chessie System	*893
			Just downstream Wheeling Avenue (downstream of Conrail)	*899
			Just upstream Wheeling Avenue (upstream of Conrail)	*909
			About 0.5 mile downstream 100 West Road	*911
			Just upstream 100 West Road	*916
			Just downstream 500 North Road	*930
		Jakes Creek	Approximately 500 feet downstream 750 West Road	*883
			Approximately 1,200 feet upstream 700 West Road	*889
			Just upstream 600 West Road	*898
			Approximately 600 feet downstream 400 West Road	*908
			Just upstream 400 West Road	*910
			Just upstream 300 West Road	*918
			Muncie corporate limits	*928
		Bell Creek	Mouth at Buck Creek	*924
			Approximately 2,400 feet upstream mouth	*924
			Just downstream of confluence of No Name Creek	*928
		No Name Creek	Just downstream 325 West Road	*928
			Approximately 300 feet upstream 325 West Road	*931
			Approximately 2,000 feet upstream 325 West Road	*940
			Just upstream private road	*944
			Just downstream State Route 67	*949
			Approximately 1,000 feet upstream State Route 67	*953
			Just upstream 400 South Road	*960
		Buck Creek	Yorktown corporate limits	*907
			Just upstream 428 West Road	*921
			Just downstream 325 West Road	*927
			About 600 feet upstream 200 South Road	*934
			At downstream Muncie corporate limit	*939
			About 1,750 feet downstream Norfolk and Western Railway (Muncie corporate limits).	*952
			Just upstream Norfolk and Western Railway	*954
			About 2000 feet upstream State Route 67 Bypass	*960
			Just upstream 400 South Road	*962
			Just upstream 700 South Road	*972
			At southern county boundary	*979
		White River	Downstream county boundary	*871
			Approximately 1,200 feet upstream 300 South Road	*881
			At Yorktown corporate limit	*899
			Just upstream of Muncie corporate limit	*954
			Approximately 1,800 feet upstream U.S. Route 35	*958
			Approximately 1,900 feet downstream 170 South Road	*973
			Just upstream 170 South Road	*977
			Approximately 2,400 feet upstream 700 East Road	*984
			At eastern county boundary	*993
Maps available for inspection at Delaware County Courthouse, 100 West Main Street, Muncie, Indiana 47305.				
Indiana	(C), Gary, Lake County (Docket No. FEMA-5843).	Grand Calumet River	About 70 feet downstream of Oline Avenue (New)	*586
			Just downstream of Norfolk and Western Railroad	*589
			About 5,597 feet upstream of Tennessee Street	*591
		Little Calumet River	About 2,600 feet downstream of I80 and 94	*594
			About 50 feet downstream of Georgia Street	*596
			About 106 feet upstream of Norfolk and Western Railroad	*597
			At upstream corporate limit	*598
		Upstream Lakes on Grand Calumet River.	Shoreline	*590
		Lake Michigan	Shoreline	*584
		Burns Ditch	Upstream corporate limit	*597
			Downstream corporate limit	*597
Maps available for inspection at the Planning Department, City Hall, 401 Broadway, Gary, Indiana 46402.				
Indiana	(C), Hammond, Lake County (Docket No. FEMA-5843).	Grand Calumet River	Downstream corporate limits	*582
			Just downstream Sohl Avenue	*584
			Approximately 3,170 feet upstream Columbia Avenue	*585
			Just upstream Kennedy Avenue	*585
			Approximately 2,320 feet downstream Cline Avenue	*586
		Little Calumet River (West)	Western corporate limits	*598
			Approximately 1,050 feet west of Northcote Avenue	*599
		Little Calumet River (East)	Approximately 200 feet west of Kennedy Avenue	*598
			Just east of Chessie System Bridge	*599
		Lake Michigan	Eastern corporate limits	*584
			Western corporate limits	*584
Maps available for inspection at the Planning Department, City Hall, 5925 Calumet Avenue, Hammond, Indiana 64320.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Indiana	(Uninc.), Hendricks County (Docket No. FEMA-5845).	Abner Creek	Just downstream of County Road 525 East	*752
			About 350 feet upstream of County Road 525 East	*754
			About 150 feet downstream of Conrail	*800
			Just upstream of County Road 100 North	*832
			About 250 feet upstream of County Road 150 North	*848
			About 3,400 feet upstream of County Road 150 North	*864
		Clarks Creek	At Old State Road 267	*691
			Just downstream of Interstate 70 eastbound	*702
			Just upstream of Interstate 70 westbound	*704
			Just upstream of County Road 600 South	*713
			About 200 feet upstream of County Road 550 South	*721
			At downstream corporate limit of Plainfield	*724
			Upstream corporate limit of Plainfield	*773
			Confluence with Army Branch	*779
			At County Road 100 South	*821
		Clarks Creek Tributary	Just upstream of Conrail	*774
			Just downstream of first crossing of County Road 800 East	*775
			Just upstream of second crossing of County Road 800 East	*780
			Just downstream of third crossing of County Road 800 East	*788
			Just upstream of third crossing of County Road 800 East	*792
			Just downstream of intersection of County Road 150 South and County Road 800 East.	*809
			At County Road 100 South	*820
		Cosner Branch	At mouth at West Fork White Lick Creek	*749
			At Martin Road	*752
			Just upstream of County Road 350 South	*763
			About 5200 feet upstream of County Road 350 South	*783
		East Fork, White Lick Creek	About 1.25 miles downstream of County Road 800 South	*679
			Just upstream of County Road 800 South	*690
			Just upstream of County Road 700 South	*700
			Just downstream of Interstate 70 eastbound	*711
			Just upstream of Interstate 70 westbound	*717
			Just upstream of County Road 450 South	*723
			Downstream crossing of eastern county boundary	*736
			Upstream crossing of eastern county boundary	*803
			Just downstream of County Road 200 North	*814
			Just upstream of County Road 200 North	*817
			Just downstream of Lantern Drive	*831
			Just upstream of Chessie System Railroad	*836
			Just downstream of County Road 300 North	*842
			Just upstream of County Road 300 North	*845
			Just downstream of County Road 975 East	*859
			Just upstream of County Road 975 East	*861
			Just upstream of County Road 900 East	*874
			About 1.25 miles upstream of County Road 900 East	*879
		Hughes Branch	Mouth at Little West Fork White Lick Creek	*866
			About 200 feet downstream of first crossing of County Road 550 North.	*891
			Just upstream of first crossing of County Road 550 North	*895
			Just downstream of third crossing of County Road 550 North	*921
		Keeny Ditch	Mouth at Little West Fork White Lick Creek	*928
			About 100 feet upstream of County Road 401 East	*930
			At County Road 275 East	*938
		Little West Fork, White Lick Creek.	Mouth at White Lick Creek	*850
			About 200 feet upstream of County Road 550 East	*863
			Just downstream Old U.S. Highway 136	*876
			Just downstream of Conrail	*879
			Just upstream of Conrail	*885
			About 4650 feet upstream of County Road 550 East	*895
			Just upstream of County Road 500 East	*909
			Just downstream of first crossing of County Road 750 North	*915
			Just upstream of second crossing of County Road 750 North	*920
			Just upstream of Interstate 74 westbound	*928
			At County Road 500 East	*939
		Thompson Creek	Mouth at West Fork White Lick Creek	*862
			About 6700 feet above confluence with West Fork White Lick Creek	*884
			At County Road 300 North	*911
		West Fork, White Lick Creek	Mouth at White Lick Creek	*681
			Just downstream of Interstate 70 eastbound	*694
			Just upstream of Interstate 70 westbound	*702
			About 1.50 miles upstream of County Road 600 East	*712
			Just upstream of Old U.S. Highway 40	*738
			About 1000 feet upstream of Conrail	*749
			Just upstream of County Road 200 East	*769
			About 1.1 mile downstream Cartersburg Road	*786
			Just upstream of County Road 200 South	*809
			Just downstream of Conrail near Danville	*831
			Just upstream of East Columbia Street	*849
			Just upstream of County Road Zero	*868
			Just upstream of County Road 200 North	*893
			Just upstream of first crossing of U.S. Highway 39	*897
			About 1 mile upstream of first crossing of U.S. Highway 39	*908

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just downstream of second crossing of U.S. Highway 39	*922
			Just upstream of second crossing of U.S. Highway 39	*927
			Just downstream of County Road 25 West	*932
		West Fork, White Lick Creek Tributary 1	Confluence with West Fork White Lick Creek	*706
			At County Road 600 South	*731
		School Branch	Just upstream of County Line Road	*809
			About 2400 feet upstream of County Line Road	*817
			About 6800 feet upstream of County Line Road	*846
			Just downstream of County Road 600 North	*862
			Just upstream of County Road 600 North	*866
			Just upstream of County Road 1000 East	*870
			Just upstream of second crossing of County Road 1000 East	*880
			Just upstream of County Road 750 North	*895
			Just upstream of Maloney Road	*903
			Just upstream of County Road 950 North	*912
		White Lick Creek	Just upstream of County Line Road	*681
			Just downstream of Interstate 70 eastbound	*692
			Just upstream of Interstate 70 westbound	*696
			Just downstream of County Road 600 South	*703
			Just upstream of County Road 600 South	*706
			Just downstream of Conrail in Plainfield	*728
			Just upstream of Conrail near Plainfield	*731
			Confluence of Abner Creek	*751
			Just upstream of Conrail	*775
			At County Road 100 North	*786
			Just upstream of County Road 200 North	*810
			Just downstream of County Road 350 North	*826
			Just upstream of County Road 350 North	*830
			Just upstream of Chessie System	*833
			Just upstream of County Road 500 North	*851
			Just upstream of Conrail at west edge of Brownsburg	*862
			Just upstream of Interstate 74 westbound	*874
			Just upstream of State Highway 267	*894
			About 1.30 miles upstream of County Road 1000 North	*914
		White Lick Creek Tributary 3	At mouth at White Lick Creek	*776
			Just downstream of U.S. Highway 36	*778
			Just downstream of outlet from Lake View	*787
			Just upstream of inlet to Lake View	*800
			Just upstream of State Highway 267	*811
			Just upstream of County Road 100 North	*830
			Just downstream of County Road 100 North	*833
			At County Road 200 North	*857
		White Lick Creek Tributary 4	Mouth at White Lick Creek	*784
			Just upstream of County Road 100 North	*791
			About 200 feet upstream of English Avenuue	*836
			Just downstream of County Road 200 North	*845
			Just upstream of County Road 200 North	*849
			At County Road 300 North	*867

Maps available for inspection at the Planning Department, Hendricks County Courthouse, Danville, Indiana 46122.

Indiana	(Uninc.), Tippecanoe County (Docket No. FEMA-5828)	Wabash River	Just downstream of confluence of Jordan Creek	*526
			Just downstream County Road 775 East	*538
		Wildcat Creek	About 1,000 feet downstream State Highway 25	*536
			Just upstream Peters Mill Road	*551
			Confluence of South Fork Wildcat Creek	*559
			Just upstream County Road 725 East	*582
			Just downstream Wolf Road	*596
		Burnett Creek	About 750 feet downstream Burnett Road	*535
			Just downstream Prophets Rock Road	*662
			About 1,000 feet upstream State Highway 225 (about 0.6 mile upstream of upstream Battle Ground corporate limits).	*587
			Approximately 1,000 feet upstream State Highway 43	*606
		South Fork Wildcat Creek	At mounth at Wildcat Creek	*559
			Just downstream State Route 26	*583
			Just upstream County Road 200 South	*611
			Just downstream State Highway 38	*624
		Middle Fork Wildcat Creek	About 750 feet downstream State Highway 26	*583
			Just downstream County Road 900 East	*619
		Wea Creek	Just downstream Lilly Road	*531
			About 200 feet downstream Norfolk and Western Railway	*541
			Just downstream State Highway 25	*548
			Just upstream State Highway 25	*550
			Just downstream U.S. Route 231 and State Highway 43	*588
			Just downstream County Road 100 East	*618
			About 200 feet downstream County Road 150 East	*624
		Elliott Ditch	About 1,100 feet downstream Romney Road	*573
			Just upstream County Road 50 East	*613
			Just downstream County Road 150 East	*637
			Just downstream County Road 250 East	*642
		Little Wea Creek	About 400 feet upstream mouth	*557
			Just downstream Louisville and Nashville Railroad	*599
			Just downstream of County Road 175 West	*610

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just upstream County Road 500 South	*623
			Just upstream County Road 625 South	*645
			Just downstream Louisville and Nashville Railroad	*674
Maps available for inspection at Tippecanoe County Area Plan Commission Office, Tippecanoe County Courthouse, 20 North 3rd Street, Lafayette, Indiana 47901.				
Indiana	(T), Westfield, Hamilton County (Docket No. FEMA-5841).	Cool Creek	Just upstream East 146th Street	*817
			Just upsteam Oak Road	*826
			Just upstream Union Street (downstream crossing)	*838
			Just upstream East 161st Street	*844
			Just upstream Oak Road (upstream crossing)	*855
			Just downstream Conrail	*858
			Just upstream Conrail	*863
			Just downstream East 186th Street	*870
		Evan Kindall Drain	At mouth	*863
			Just upstream Cherry Street	*874
			Just downstream Conrail	*878
			Just upstream Conrail	*884
			Just downstream U.S. Route 31	*886
			Just upstream U.S. Route 31	*894
Maps available for inspection at the Westfield Planning Department, Town Hall, 130 Penn Street, Westfield, Indiana 46074.				
Indiana	(T), Yorktown, Delaware County (Docket No. FEMA-5843).	White River	Western corporate limit	*896
			About 5,000 feet upstream of Yorktown-Gaston Pike	*907
			Eastern corporate limit	*916
		Buck Creek	At confluence with White River	*896
			About 150 feet upstream State Road 32	*900
			Just upstream Conrail Bridge	*903
			Southern corporate limit	*907
Maps available for inspection at the Town Manager's Office, Town Hall, Yorktown, Indiana 47396.				
Kansas	(C), Winfield, Cowley County (Docket No. FEMA-5843).	Walnut River	About 0.75 mile downstream of Main Street	*1,121
			Just upstream of Ninth Avenue	*1,130
			About 1.1 miles upstream of confluence of Timber Creek	*1,132
		Timber Creek	Mouth at Walnut River	*1,132
			Upstream corporate limits (near Union Cemetery)	*1,132
		Black Crook Creek	About 1,950 feet downstream of Twelfth Avenue	*1,132
			At confluence of Black Crook Creek, Middle and West Branches	*1,135
			Just downstream of Simpson Avenue	*1,153
			About 1,250 feet upstream of Simpson Avenue	*1,159
		Middle Branch Black Crook Creek	Just upstream of dam	*1,140
			Just downstream of Ninth Avenue	*1,158
			Just upstream of Simpson Avenue	*1,164
			Just downstream of T.P. Hales Road	*1,193
		West Branch Black Crook Creek	Just upstream of Harris Road	*1,141
			Just upstream of Central Avenue	*1,151
			Just upstream Wheat of Road	*1,164
			Just upstream of Simpson Avenue	*1,175
Maps available for inspection at City Hall, Planning Department, P.O. Box 646, Winfield, Kansas 67156.				
Kentucky	City of Mayfield, Graves County (FEMA-5835).	Kess Creek	Just upstream of 10 Street (Central Avenue)	*472
			Just upstream of Belmeade Drive	*477
Maps available for inspection at City Hall, 211 East Broadway, Mayfield, Kentucky 42066.				
Maine	Pittston, Town, Kennebec County (Docket No. FI-5665).	Kennebec River	Downstream Corporate Limits	*25
			Confluence of Morton Brook	*26
			Upstream Corporate Limits	*28
		Togus Stream	Confluence with Kennebec River	*28
			State Route 27 Bridge	*28
			Confluence of Tony Meadow Brook	*68
			Pinkham Road Bridge (Upstream)	*74
			Upstream Corporate Limits	*81
Maps available at the Fire Station and the Regional Planning Ofice, 125 State Street, Augusta, Maine.				
Michigan	(Twp), Commerce, Oakland County (Docket No. FEMA-5843).	Huron River	Just downstream of Creedmore Drive	*910
			About 100 feet upstream of Sleeth Road	*914
			Just downstream of Farr Street	*929
			Just upstream of Fox Lake Outlet Dam	*931
		Huron River West Branch	Mouth at Commerce Lake	*910
			Divergence from Huron River	*910
		Carus Lake and Pleasant Lake Channel.	About 3,000 feet downstream of Haggerty Highway	*931
			Just downstream of Haggerty Highway	*934
		Long Lake	Shoreline	*936
		Union Lake	Shoreline	*928
		Middle Straits Lake	Shoreline	*933
		Lake Sherwood	Shoreline	*931
		Bass Lake	Shoreline	*919
		North Commerce Lake	Shoreline	*910
		South Commerce Lake	Shoreline	*910
		Lower Straits Lake	Shoreline	*932

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Carroll Lake	Shoreline	*925
		Twin Suns Lake	Shoreline	*919
		Mud Lake	Shoreline	*914
		Reed Lake	Shoreline	*917
		Fox Lake	Shoreline	*931
Maps available for inspection at Township Hall, 2840 Fisher Road, Commerce, Michigan 48088.				
Michigan	(Twp), Redford, Wayne County (Docket No. FEMA-5843).	Upper River Rouge	Downstream corporate limits	*617
			Upstream corporate limits	*629
		Bell Branch	Mouth at Upper River Rouge	*618
			Upstream corporate limits	*621
		Ashcroft-Sherwood Drain	Downstream corporate limits	*607
			Just downstream Telegraph Road	*617
		Shallow Flooding (overflow from Ashcroft-Sherwood Drain).	At eastward bend of Appleton Street	2
Maps available for inspection at Township Hall, 15145 Beech Daly Road, Redford, Michigan 48239.				
Minnesota	(Twp), Hassan, Hennepin County (Docket No. FEMA-5843).	Crow River	At northeastern corporate limits	*862
			Just upstream of Interstate 94	*873
			About 2.03 miles upstream of Berning Mill Dam	*880
			At southern corporate limits	*891
Maps available for inspection at the Office of the Township Clerk, 11995 Kelley Lane, Rogers, Minnesota 55374.				
Minnesota	(C), Hawley, Clay County (Docket No. FEMA-5835).	Buffalo River	At downstream corporate limit	*1,131
			Just downstream of U.S. Highway 10	*1,139
			At upstream corporate limit	*1,144
Maps available for inspection at City Hall, Hawley, Minnesota 56549.				
Mississippi	City of Corinth, Alcorn County (FEMA-5818).	Phillips Creek	Just upstream of Shiloh Road	*449
		Bridge Creek	Just upstream of Kendrick Road	*447
		Elam Creek	Just upstream of Mitchell Street	*431
		Turner Creek	Just upstream of HWY 45	*434
Maps available for inspection at Municipal Building, City Clerk's Office, 300 Childs Streets, Corinth, Mississippi 77507.				
Missouri	(C), O'Fallon, St. Charles County (Docket No. FEMA-5841).	Belleau Creek	About 0.29 mile downstream of Norfolk and Western Railway	*461
			About 200 feet upstream of Norfolk and Western Railway	*463
			About 0.05 mile downstream of North Outer Road	*466
			Just upstream of Old Highway 40	*472
			About 0.40 mile upstream of Belleau Creek Road	*477
			About 0.85 mile upstream of Belleau Creek Road	*484
			About 200 feet upstream of County Highway K	*508
			About 0.70 mile upstream of County Highway K	*523
Maps available for inspection at City Hall, 138 South Main Street, O'Fallon, Missouri 63366.				
Nebraska	(C), Norfolk, Madison County (Docket No. FEMA-5841.	Elkhorn River	Eastern extraterritorial limit	*1,501
			Just downstream of 1st Street	*1,513
			About 450 feet upstream of U.S. Route 81	*1,520
			About 800 feet upstream of Union Pacific Railroad	*1,526
			At western extraterritorial limit	*1,534
		Elkhorn River Sandpits Bypass	At confluence with Elkhorn River	*1,521
			Just downstream Union Pacific Railroad	*1,523
			At divergence with Elkhorn River	*1,529
Maps available for inspection at the City Engineer's Office, 111 South First Street, Norfolk, Nebraska 68701.				
Nebraska	(C), Sidney, Cheyenne County (Docket No. FEMA-5843).	Lodgepole Creek	At downstream extraterritorial limits	*4,036
			Approximately 6,300 feet downstream of U.S. Highway 385	*4,047
			Approximately 600 feet downstream of U.S. Highway 385	*4,059
			Approximately 150 feet upstream of U.S. Highway 385	*4,061
			Just upstream of County Road	*4,065
			Just upstream of State Highway 19	*4,078
			Just upstream of Osage Road	*4,086
			Just upstream of 11th Avenue	*4,090
			Just upstream of 13th Avenue	*4,096
			Just upstream of Pine Street	*4,099
			At the confluence of Deadwood Draw	*4,103
			Just upstream of County Road, located approximately 5,000 feet upstream of Deadwood Draw.	*4,114
			At the upstream extraterritorial limits	*4,129
		Sidney Draw	Mouth at Lodgepole Creek	*4,120
			Just downstream of County Road, located about 3,500 feet upstream or its mouth.	*4,128
			Just upstream of County Road, located about 3,500 feet upstream of its mouth.	*4,132
			Just upstream of County Road, located 700 feet downstream of the extraterritorial limits.	*4,134
			At the upstream extraterritorial limits	4,135

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Shallow Flooding (overflow from Deadwood Draw).	Just east of the intersection of 14th Avenue and Grant Street	*4,092
			Approximately 400 feet west of the intersection of 23rd Avenue and Newton Street.	*4,100
			Approximately 400 feet upstream of the Union Pacific Railroad	*4,120
			Approximately 5,000 feet upstream of the Union Pacific Railroad	*4,160
Maps available for inspection at the City Inspector's Office, 1115 13th Avenue, Sidney, Nebraska 69162.				
New Jersey	Englishtown, Borough, Monmouth County (Docket No. FEMA-5843).	McGellairds Brook	Downstream Corporate Limits	*61
			North Main Street Upstream side	*64
			Upstream Corporate Limits	*65
		Weamaconk Creek	Downstream Corporate Limits	*61
			Mill Pond Dam—Downstream side	*67
			1,440' upstream of South Main Street	*73
		Tributary to Weamaconk Creek	Confluence with Weamaconk Creek	*66
			Downstream of Conrail	*70
			Upstream Corporate Limits	*81
Maps available at the Borough Clerk's Office, Municipal Building, 13 Main Street, Englishtown, New Jersey.				
New Jersey	Frenchtown, Borough, Hunterdon County (Docket No. FEMA-5841).	Delaware River	Downstream Corporate Limits	*125
			Approximately 1,100 feet upstream of downstream Corporate Limits	*126
			Confluence of Nishisakawick Creek	*127
			Upstream side of Bridge Street	*128
			Upstream Corporate Limits	*129
		Nishisakawick Creek	Confluence with Delaware River	*127
			Approximately 630 feet upstream of Kingswood Avenue	*128
			Confluence of Unnamed Tributary	*142
			Upstream Corporate Limits	*160
		Little Nishisakawick Creek	Confluence with Delaware River	*127
			Approximately 2,090 feet upstream of confluence with Delaware River	*131
			Approximately 3,600 feet upstream of confluence with Delaware River	*153
			Upstream Corporate Limits	*173
Maps available at the Borough Clerk's Office, Borough Hall, Frenchtown, New Jersey.				
New Jersey	Haledon (Borough), Passaic County (FEMA-5843).	Molly Ann Brook	Intersection of Molly Ann Brook and center of West Broadway	*138
			40 feet upstream from center of Church Street (High Mountain Road)	*177
Maps available for inspection at Tax Office, 407 Belmont Avenue, Haledon, New Jersey.				
New Jersey	Holland, Township, Hunterdon County (Docket No. FEMA-5841).	Delaware River	Downstream Corporate Limits	*141
			Confluence with Tributary No. 1	*149
			Approximately 4,000' upstream of confluence with Tributary No. 1	*153
			3,650' downstream of upstream Corporate Limits	*157
			Upstream Corporate Limits	*159
		Milford Creek	Downstream Corporate Limits	*180
			Approximately 800' upstream of downstream Corporate Limits	*186
			County Route 519 bridge	*201
			Approximately 300' downstream of Private Drive bridge	*209
			Downstream side of Private Drive bridge	*212
			Upstream side of Private Drive bridge	*213
			Approximately 700 feet upstream of Private Drive bridge	*220
			Approximately 1,350' upstream of Private Drive bridge	*229
			Approximately 900' downstream of County Route 519 bridge	*240
			Approximately 100' downstream of County Route 519 bridge	*247
			Upstream side of County Route 519 bridge	*250
			Approximately 1,000' upstream of County Route 519 bridge	*260
			Approximately 400' downstream of Spring Garden Road bridge	*270
			Spring Garden Road bridge	*281
		Tributary No. 1 to Milford Creek	Confluence with Milford Creek	*252
			Approximately 1,000' upstream of confluence with Milford Creek	*264
			Approximately 340' downstream of Spring Garden Road bridge	*273
			Spring Garden Road bridge	*279
		Tributary No. 1 to Delaware River	Confluence with Delaware River	*149
			Approximately 900' upstream of Conrail bridge	*149
			Downstream side of Riegelsville-Milford Road bridge	*163
			Upstream side of Riegelsville-Milford Road bridge	*165
			Approximately 890' upstream of Riegelsville-Milford Road bridge	*173
			Downstream crossing of Phillips Road	*188
			Approximately 880' upstream of Philips Road	*199
			Approximately 670' downstream of the upstream crossing of Phillips Road.	*225
			Upstream crossing of Phillips Road	*243
		Musconetcong River	Confluence with Delaware River	*159
			Downstream side of Mount Joy Road bridge	*161
			Upstream side of Mount Joy Road bridge	*165
			Approximately 2,850' upstream of Mount Joy Road bridge	*167
			Approximately 1,825' downstream of Willow Lane bridge	*173
			Approximately 725' downstream of Willow Lane bridge	*174
			Upstream side of Willow Lane bridge	*176
			Approximately 200' downstream of dam	*192
			Upstream side of dam	*202
			Milford-Warren Glen Road bridge	*204

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Upstream side of Private Road bridge	*210
			Downstream side of Reigle Paper Company Dam	*231
			Upstream side of Reigle Paper Company Dam	*255
			Upstream Corporate Limits	*257
Maps available at the City Clerk's Office, Holland New Jersey.				
New Jersey	Sayreville, Borough, Middlesex County (Docket No. FEMA-5725).	South River	Entire length within corporate limits	*12
		Tennetts Brook	Entire length within corporate limits	*12
		Crossway Creek	From confluence with Cheesequake Creek to Ernston Road	*12
			Ernston Road upstream	*14
			Garden State Parkway downstream	*17
			Garden State Parkway upstream	*31
			Frank Avenue downstream	*45
			Frank Avenue upstream	*55
			Approximately 750' upstream of Frank Avenue	*59
		Raritan Bay	Entire length of coast within corporate limits	*12
			Backwater on Cheesequake Creek and Mellins Creek from confluence with Raritan Bay to upstream corporate limits.	*12
		Raritan River	Entire length within corporate limits	*12
Maps available at the Borough Clerk's Office, Borough Municipal Building, 167 Main Street, Sayreville, New Jersey.				
New York	Erwin, Town, Steuben County (Docket No. FI-5316).	Chemung River	Downstream Corporate Limits	*934
		Tioga River	Confluence with Cohocton River	*935
			Conrail Bridge Upstream	*941
			Mulholland Road (Upstream)	*950
			Confluence with the Canisteo River	*953
			Upstream Corporate Limits	*958
		Canisteo River	Confluence with Tioga River	*953
			Old U.S. Route 15 Upstream	*958
			U.S. Route 15 Upstream	*963
			Upstream Corporate Limits	*977
		Cohocton River	Downstream Corporate Limits	*937
			Upstream U.S. Route 15	*938
			Confluence with Meads Creek	*953
			Upstream Corporate Limits	*974
		Meads Creek	Confluence with Cohocton River	*953
			New York Route 415	*956
			Access Road Ford	*965
			Upstream Corporate Limits	*970
Maps available at the Town Hall, Erwin, New York.				
New York	Henderson, Town, Jefferson County (Docket No. FEMA-5843).	Stony Creek	40' upstream from Clarks Point Road	*252
			Whitney Road (extended)	*256
			160' downstream from Game Club Road	*279
			Game Club Road (upstream side)	*289
			80' upstream from State Route 3	*292
			500' downstream from Salisbury Mills Park Dam	*295
			Salisbury Mills Park Dam (upstream side)	*317
			100' upstream from State Route 178	*320
			At Henderson Pond	*323
		Lake Ontario	Shoreline within community	*249
		Crystal Lake	Entire shoreline within community	*427
Maps available at the Town Hall, Route 178, Henderson, New York.				
North Carolina	Orange County (unincorporated areas) FEMA-5841.	New Hope Creek	50 feet upstream from center of North Carolina Secondaryd Road 1737.	*270
			25 feet upstream from center of North Carolina Secondary Road 1718	*423
		Piney Mountain Creek	25 feet downstream from center of Mineral Springs Road (North Carolina Secondary Road 1718).	*301
		Old Field Creek	75 feet upstream from center of State Highway 86	*442
		Booker Creek	25 feet upstream from center of State Highway 86	*476
		Bolin Creek	50 feet upstream from center of North Carolina Secondary Road 1777	*446
		Jones Creek	Confluence of creek and Bolin Creek	*467
		Morgan Creek	25 feet upstream from center of North Carolina Secondary Road 1104	*474
		Phils Creek	50 feet downstream from center of North Carolina Secondary Road 1005.	*398
		Neville Creek	25 feet downstream from center of North Carolina Secondary Road 1946.	*436
		West Price Creek	Confluence of creek and East Price Creek	*360
		East Price Creek	25 feet downstream from center of Yorktown Drive	*395
		Eno River	50 feet upstream from center of Lawrence Road (North Carolina Secondary Road 1561).	*486
			50 feet downstream from center of U.S. Highway 70	*534
		Rhodes Creek	Intersection of creek and center of North Carolina Secondary Road 1710.	*441
		Stony Creek	50 feet upstream from center of North Carolina Secondary Road 1710	*471
		Stony Creek Tributary	100 feet upstream from center of North Carolina Secondary Road 1712.	*446
		Buckwater Creek	25 feet downstream from center of Farm Road	*495

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Buckwater Creek Tributary Number One.	25 feet downstream from center of Farm Road	*467
		Buckwater Creek Tributary Number Two.	25 feet downstream from center of St. Marys Road (North Carolina Secondary Road 1002).	*493
		Spring Valley Creek	25 feet upstream from center of Palmers Grove Church Road (North Carolina Secondary Road 1565).	*568
		Little Creek	50 feet upstream from center of St. Marys Road (North Carolina Secondary Road 1002).	*497
		Strouds Creek	25 feet upstream from center of St. Marys Road (North Carolina Secondary Road 1002).	*494
		Strouds Creek Tributary Number One.	75 feet upstream from center of Burke Road (North Carolina Secondary Road 1556).	*536
		Sevenmile Creek	100 feet downstream from center of Interstate Highway	*530
		Rocky Run	100 feet downstream from center of North Carolina Secondary Road 1135.	*559
		McGowan Creek	50 feet downstream from center of North Carolina Secondary Road 1324.	*589
		East Fork Eno River	50 feet downstream from center of North Carolina Secondary Road 1332.	*585
			25 feet downstream from center of North Carolina Secondary Road 1352.	*627
		West Fork Eno River	25 feet downstream from center of Cedar Grove Road (North Carolina Secondary Road 1004).	*592
		South Fork Little River	25 feet upstream from center of North Carolina Secondary Road 1538	*496
		Forrest Creek	25 feet downstream from center of North Carolina Secondary Road 1548.	*539
		North Fork Little River	25 feet downstream from center of North Carolina Secondary Road 1538.	*521
		Cates Creek	25 feet upstream from center of North Carolina Secondary Road 1009	*596
Maps available for inspection at Planning Department, Mr. Jim Polotay, 106 East Margaret Lane, Hillsboro, North Carolina.				
Ohio	(V), Silver Lake, Summit County (Docket No. FEMA-5841).	Cuyahoga River	Southwestern corporate limits	*998
			Eastern corporate limits	*999
		Tributary 1	Near mouth at Cuyahoga River	*999
			At eastern corporate limits	*1,002
Maps available for inspection at Silver Lake Village Hall, 2961 Kent Road, Silver Lake Village, Cuyahoga Falls, Ohio 44224.				
Pennsylvania	East Cocalico, Township, Lancaster County (Docket No. FEMA-5824).	Cocalico Creek	Upstream side of Wabash Road	*364
			Upstream side of Cocalico Road	*370
			Upstream side of Stevens Road	*374
			Upstream Corporate Limits	*383
		Stony Run	Downstream side of Cocalico Road	*369
			Downstream side of East Church Street	*382
			Downstream side of Bunker Road	*393
			Upstream side of Kurtz Road	*404
			Upstream side of Denver Road	*410
			Downstream side of Pennsylvania Turnpike	*426
Maps available at the East Cocalico Township Building.				
Pennsylvania	East Pikeland, Township, Chester County (Docket No. FEMA-5828).	Schuylkill River	Downstream Corporate Limits	*110
			Upstream Corporate Limits	*113
		French Creek	State Routes 23 and 724	*117
			Upstream side of Rapps Dam	*127
			Seven Stars Road (Upstream side)	*148
			Upstream Corporate Limits	*149
		Pickering Creek	Downstream Corporate Limits	*204
			250' upstream of Merlin Road	*213
			Upstream side of Pickering Road	*228
			Upstream Corporate Limits	*232
Maps available at the East Pikeland Township Building, Rapps Dam Road and at the Office of the City Engineer, 222 North Walnut Street, West Chester, Pennsylvania.				
Pennsylvania	Easttown, Township, Chester County (Docket No. FEMA-5843).	East Tributary to Darby Creek	Approximately 250' from confluence with Darby Creek	*346
			Approximately 650' downstream of Footbridge	*355
			Upstream of Sugartown Road	*367
			Confluence with Tributary A	*374
			Heatherwood Road (Extended)	*385
			Upstream side of Daventry Road	*400
			Approximately 400' upstream of Daventry Road	*405
			Approximately 200' downstream of Woodside Avenue	*421
			Downstream side of Woodside Avenue	*427
		Tributary A	Confluence with East Tributary to Darby Creek	*374
			Approximately 960' upstream of confluence	*384
			Downstream side of Arlington Road	*390
Map available at the Easttown Township Building.				
Pennsylvania	Elizabeth, Township, Lancaster County (Docket No. FEMA-5815).	Middle Creek	Downstream Corporate Limits	*355
			U.S. Route 322 (Downstream)	*356
			Confluence of Furnace Run	*360

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Furnace Run	Confluence with Middle Creek	*360
			Yummerdale Road (Upstream)	*363
Maps available at the Elizabeth Township Building, 217 East 28th Division Highway, Lititz, Pennsylvania.				
Pennsylvania	Limerick, Township, Montgomery County, (Docket No. FEMA-5828).	Schuylkill River	Downstream Corporate Limits	*118
			Upstream Vincent Dam	*124
			Upstream Conrail	*128
			Upstream Corporate Limits	*129
		Mingo Creek	Corporate Limits	*150
			Upstream Royersford Road	*163
			Confluence of Tributary No. 1 to Mingo Creek	*164
			3,000' upstream Reifsnyder Road	*180
			Upstream Linfield Road	*198
			1,000' upstream Linfield Road	*200
		Tributary No. 1 to Mingo Creek	Confluence with Mingo Creek	*164
			Upstream Dam	*171
			Downstream Country Club Road	*189
			100' upstream Country Club Road	*194
		Lodal Creek	Corporate Limits	*204
			Upstream Graterford Road	*216
			750' upstream Graterford Road	*220
Maps available at the Limerick Township Building.				
Pennsylvania	Maidencreek, Township, Berks County (Docket No. FEMA-5824).	Willow Creek	Downstream Corporate Limits	*295
			U.S. Route 222	*299
			State Route 73 (downstream)	*312
			Private Lane 2,600 feet upstream of State Route 73 (upstream)	*325
			3,500 feet upstream of State Route 73 (Limit of Detailed Study)	*326
Maps available at the Maidencreek Township Building.				
Pennsylvania	New Columbus, Borough, Luzerne County (Docket No. FEMA-5828).	Pine Creek	Downstream Corporate Limits	*717
			Legislative Route 40077 Upstream	*719
			Hollow Road Upstream	*726
			Private Lane (Extended)	*731
			Legislative Route 40078/Academy Street	*755
			Upstream Corporate Limits	*757
Maps available at Jack Frantz Barbershop, New Columbus Corners.				
Pennsylvania	Perry, Township, Berks County (Docket No. FEMA-5824).	Tributary No. 2	Downstream Corporate Limits	*331
			Private Lane 1,700 feet upstream from Corporate Limits (Upstream)	*350
			Main Street (Upstream)	*356
			Culvert at Legislative Route 160 (Downstream)	*368
			Culvert of Township Route 733 (Upstream)	*374
			Upstream Corporate Limits	*386
Maps available at the Perry Township Building.				
Pennsylvania	Porter, Township, Huntingdon County (Docket No. FEMA-5724).	Juniata River	3.20 miles downstream of the confluence of Little Juniata River and Frankstown Branch Juniata River.	*671
			1.35 miles downstream of the confluence of Little Juniata River and Frankstown Branch Juniata River.	*675
			Confluence of Little Juniata River and Frankstown Branch Juniata River.	*679
		Little Juniata River	Confluence with Frankstown Branch Juniata River	*679
			Upstream side of State Route 305	*687
			Upstream side of Conrail (1.2 miles upstream of State Route 305)	*700
			Upstream side of Legislative Route 31051	*719
			Upstream side of Conrail (1.2 miles upstream of Legislative Route 31051.	*738
		Frankstown Branch Juniata River	Confluence with Little Juniata River	*679
			Upstream side of Legislative Route 31098	*680
			Upstream side of Legislative Route 855	*694
			Upstream side of State Route 305	*705
			Upstream side of U.S. Route 22	*720
		Robinson Run	U.S. Route 22	*695
			Upstream side of Legislative Route 31075	*696
			.234 mile upstream of Legislative Route 31075	*704
		Emma Creek	Confluence with Robinson Run	*698
			Upstream side of Township Route 477	*700
			Private Drive (015 mile upstream of Route 477)	*727
			Private Drive (0.5 mile upstream Private Drive)	*747
			Upstream side of Legislative Route 31046	*786
			.1 mile upstream of Legislative Route 31046	*793
Maps available at the Township Building, Alexandria, Pennsylvania.				
Pennsylvania	Slatington, Borough, Lehigh County (Docket No. FEMA-5824).	Lehigh River	Downstream Corporate Limits	*358
			Upstream side of Main Street Bridge	*363
			4,000' upstream of Main Street Bridge	*368
			Upstream Corporate Limits	*372

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Trout Creek	Confluence with Lehigh River	*362
			400' upstream of the South Walnut Street Bridge	*367
			800' upstream of the South Walnut Street Bridge	*372
			450' upstream of the Main Street Bridge	*378
Maps available at the Borough Building, 125 South Walnut Street, Slatington, Pennsylvania.				
Pennsylvania	Spring City, Borough, Chester County (Docket No. FEMA-5841).	Schuylkill River	Downstream Corporate Limits	*112
			Upstream Walnut Street Extended	*113
			Downstream side Main Street	*114
			Upstream Corporate Limits	*117
Maps available at the Borough Hall, Spring City, Pennsylvania.				
Pennsylvania	Towanda, Borough, Bradford County (Docket No. FEMA-5841).	Susquehanna River	Downstream Corporate Limits	*720
			Confluence of Tributary A	*722
			Conrail Bridge	*722
			Upstream Corporate Limits	*723
		Tributary A	Upstream of Conrail Bridge	*727
			U.S. Route 6 crossing	*742
			Approximately 400 feet upstream of U.S. Route 6 crossing	*749
			Culvert headwall near 3rd Street crossing	*765
			4th Street crossing	*792
			Headwall located approximately 420 feet upstream of 4th Street crossing.	*813
			Manhole located approximately 1,100 feet upstream of 4th Street crossing.	*836
			Entrance to culvert approximately 1,475 feet upstream of 4th Street crossing.	*850
			Upstream Corporate Limits	*871
Maps available at the Municipal Building, 724 South Main Street, Towanda, Pennsylvania.				
Pennsylvania	Worcester, Township, Montgomery County (Docket No. FEMA-5778).	Zacharias Creek	Downstream Corporate Limits	*166
			Downstream Dam—3,350 feet upstream of Corporate Limits	*179
			Green Hill Road (Upstream)	*184
			Frog Hollow Road (Downstream)	*184
			Downstream Shutt Mill Road (Extended)	*193
			State Route 363 (Downstream)	*208
			State Route 363 (Upstream)	*215
			State Route 73 (Downstream)	*224
			State Route 73 (Upstream)	
			Farm Road (Downstream)	*247
			Farm Road (Upstream)	*251
			Confluence of North Branch Zacharias Creek	*259
			Weber Road (Downstream)	*269
			Weber Road (Upstream)	*271
			Private Road off Weber Road (Extended)	*280
			Pennsylvania Turnpike (Upstream)	*288
			Berks Road (Upstream)	*296
			Morris Road (Downstream)	*306
		North Branch Zacharias Creek	Confluence of Zacharias Creek	*259
			Curtis Lane (Extended)	*264
			700 feet downstream of Weber Road	*278
			Weber Road (Upstream)	*290
			Pennsylvania Turnpike (Upstream)	*295
			180 feet downstream of Morris Road	*310
			Morris Road (Downstream)	*316
Maps available at the Office of the Worcester Township Secretary, 3063 Germantown Pike.				
Rhode Island	Hopkinton, Town, Washington County (Docket No. FEMA-5841).	Wood River	Upstream of Woodville Road	*55
			Upstream of dam upstream of Woodville Road	*60
			Upstream of Hope Valley Road	*68
			Upstream of Interstate Route 95	*69
			Upstream of Maple Avenue	*72
			Upstream of dam upstream of Maple Avenue	*80
			Upstream of State Route 3	*83
			Upstream of downstream crossing of Arcadia Road	*86
			Upstream of dam upstream of downstream crossing of Arcadia Road	*100
			Upstream of Skunk Hill Road	*101
			Upstream of upstream crossing of Arcadia Road	*110
			500' upstream of dam upstream of upstream crossing of Arcadia Road.	*115
		Pawcatuck River	Downstream Corporate Limits	*27
			Upstream of dam downstream of Potter Hill Road	*32
			Upstream of State Route 3	*34
		Ashaway River	Confluence with Pawcatuck River	*27
			Upstream of dam downstream of Laurel Street	*33
			Downstream of State Route 216	*35
			Upstream of State Route 216	*41
		Mile Brook	Upstream of Laurel Street	*28
			Upstream of State Route 3	*33
			1,700' upstream of State Route 3	*39

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Tomaquag Brook	Confluence with Pawcatuck River	*34
			Upstream of Ashaway Bradford Road	*39
			Upstream of Burdickville Road	*43
		Canonchet Brook	Confluence with Wood River	*60
			4,000' upstream of confluence with Wood River	*65
			Upstream of Alton Road	*71
			Upstream of Palmer Circle	*76
			Upstream of Interstate Route 95	*80
			Upstream of State Route 3	*80
		Canonchet Brook Tributary	Confluence with Canonchet Brook	*80
			Upstream of downstream crossing of Canonchet Road	*84
			Upstream of first downstream dam	*95
			Upstream of second downstream dam	*108
			Upstream of upstream crossing of Canonchet Road	*111
			850' upstream of upstream crossing of Canonchet Road	*116
Maps available at the Office of the Town Clerk, Hopkinton, Rhode Island.				
South Carolina	Town of McClellanville, Charleston County (FEMA-5828).	Atlantic Ocean (Backwater Flooding along Jeremy Creek and Intracoastal Waterway).	Entire community	*12
Maps available for inspection at Town Office, Pinkney Street, McClellanville, South Carolina 29458.				
Tennessee	Unincorporated Areas of Lake County (FEMA-5835).	Reelfoot Lake	Entire Shoreline	
			Mississippi River	
			Illinois Central Gulf Railroad cross over Old Tramway Ditch	*287
				*294
Maps available for inspection at Lake County Courthouse, Agricultural, Department, Church Street, Tiptonville, Tennessee 38079.				
Tennessee	City of Millington, Shelby County (FEMA-5835).	Big Creek Drainage Canal	Just upstream of U.S. Highway 51	*259
			Just upstream of Raleigh-Milington Road	*262
		Royster Creek	Approximately 500 feet upstream of Shelby Road	*258
		North Fork Creek	Approximately 500 feet upstream of Navy Road	*262
			Just upstream of Cuba-Millington Road	*270
			Approximately 1200 feet upstream of Cuba-Milington Road	*274
		North Fork Creek Laterial A	At northernmost corporate limits (extended)	*281
Maps available for inspection at City Hall, 7930 Nelson Street, Millington, Tennessee 38053				
Tennessee	Town of Obion, Obion County (FEMA-5835).	Johnson-Hurt Avenue Tributary	Just upstream of Hurt Avenue	*285
			Just upstream of U.S. Highway 51	*289
		Fifteenth St. Tributary	Just upstream of Palestine Street	*287
Maps available for inspection at Town Hall, Seventh Street, Obion, Tennessee 38240.				
Tennessee	City of Tiptonville, Lake County (FEMA-5835).	Mississippi River	Intersection of Tipton Street and McBride St	*294
		Reelfoot Lake	Northeast of the intersection of Sunkist Road and State Highways 21 and 22.	*287
Maps available for inspection at City Hall, 130 South Court, Tiptonville, Tennessee 38079.				
Texas	Unincorporated Areas of Collin County (FEMA-5828).	Cottonwood Ck. East Fork	Just upstream of U.S. Fale County Road	*504
		Rush Creek	Just upstream of County Road	*454
			Just upstream of Old State Highway 78	*498
		Franklin Br	Just downstream of U.S. Highway 380	*590
		Unnamed Trib. to Wilson Creek	Just downstream of State Highway 3038 (Old Rock Hill Road)	*601
		Rutherford Branch	Just upstream of FM 2478	*643
		Wilson Creek (Main Stream)	Just upstream of U.S. Highway 380	*601
			Just upstream of FM 2478	*637
		Stream 5B13	Just downstream of City of Plano corporate limits (Approximately 400 feet downstream of Atchison Topeka & Santa Fe Railway).	*685
		Tributary to Rowlett Ck	Just downstream of City of Frisco corporate limits	*684
		White Rock Creek East	Just upstream of FM 3286	*491
			Just upstream of Winningkoff Road	*524
		Reid Branch	Approximately 120 feet downstream of westernmost corporate limits of the Town of Lucas (approximately 2,300 feet upstream of the County Road within the Town of Lucas).	*553
		Muddy Creek downstream	Just upstream of St. Louis and Southwestern Railway	*499
		Muddy Creek upstream	Approximately 200 feet upstream of County Road (Highway 2514 extended) within the Town of Lucas.	*548
		Muddy Creek Tributary 1	Approximately 150 feet upstream of FM 544	*510
		Muddy Creek Tributary 2	Just upstream of Asphalt Road	*571
		Stream 5B14	Just downstream of the City of Plano corporate limits	*678
		Rowlett Creek	Just upstream of State Highway 121	*640
		Tributary to Rowlett Ck	Just upstream of State Highway 720	*668
		Cottonwood Creek	Just upstream of State Highway 121	*676
		White Rock Creek-West	Approximately 200 feet downstream of Atchison Topeka and Santa Fe Railway.	*609
		Rush Creek Tributary	Just upstream of Old State Highway 78 Westbound	*509
		Camp Creek	Just upstream of State Highway 205	*445
Maps available for inspection Collin County Courthouse, 2nd Floor, 200 McDonald Street, McKinney, Texas 75069.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Vermont	Village of Alburg, Grand Isle County (Docket No. FEMA-5723).	Lake Champlain	Coastline	*102
Maps available at the Alburg Town Office.				
Vermont	Town of Alburg, Grand Isle County (Docket No. FEMA-5723).	Lake Champlain	Coastline	*102
			Mud Creek	*102
Maps available at the Alburg Town Office.				
Vermont	South Burlington, City, Chittenden County (Docket No. FEMA-5825).	Winooski River	Downstream Corporate Limits	*167
			Upstream of Dam	*204
			Upstream of Airport Parkway	*217
			Upstream Corporate Limits	*220
		Lake Champlain	Entire shoreline within community	*102
Maps available at the City Manager's Office, City Hall, South Burlington, Vermont.				
Wisconsin	(C), Chilton, Calumet County (Docket No. FEMA-5841).	South Branch Manitowoc River	About 1,580 feet downstream of East Main Street	*842
			About 80 feet downstream of East Main Street	*849
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*851
			Just upstream of Grand Street	*858
			About 160 feet upstream of Commerce Street	*868
			Just upstream Madison Street	*880
			About 265 feet upstream of Madison Street	*881
			Just upstream of State Street	*888
			At upstream corporate limit	*890
Maps available for inspection at the Office of the City Clerk, City Hall, 42 School Street, Chilton, Wisconsin 53014.				
Wisconsin	(C), Fox Lake, Dodge County (Docket No. FEMA-5843).	Old Mill Creek	Downstream corporate limit	*881
			About 300 feet downstream of Trenton Street	*882
			Just downstream River Street dam	*886
			Just upstream of River Street dam	*892
			Upstream corporate limits	*892
		Fox Lake	Shoreline	*892
Maps available for inspection at Office of the City Clerk, City Hall, Fox Lake, Wisconsin 53933.				
Wisconsin	(C), Galesville, Trempealeau County (Docket No. FEMA-5841).	Lake Marinuka	Shoreline	*702
		Beaver Creek	At downstream corporate limit	*685
			Just upstream Second Street	*690
			Just upstream Main Street	*692
			Just downstream of Dam	*693
			Just upstream of Dam	*702
Maps available for inspection at the Office of the Village Clerk, Village Hall, Galesville, Wisconsin 54630.				
Wisconsin	(V), Melrose, Jackson County (Docket No. FEMA-5841).	Douglas Creek	About 0.74 mile downstream of M Street	*724
			Just downstream of M Street	*731
			Just upstream of M Street	*762
			About 0.62 mile upstream of M Street	*763
Maps available for inspection at the Office of the Village Clerk, Village Hall, Melrose, Wisconsin 54642.				

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

Issued: October 3, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-32879 Filed 10-23-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[FCC 80-516]

Domestic Public Radio Services (Other Than Maritime Mobile) and Public Mobile Radio Services; Ownership Amendments

Correction

In FR Doc. 80-30829, appearing at page 65597 in the issue for Friday, October 3, 1980, on page 65600, in the third column, under "**§ 21.31 [Amended]**", the amendatory language referring to "47 CFR 21.31(c)(3)" should have read "47 CFR 21.31(e)(3)".

BILLING CODE 1505-01-M

47 CFR Part 76

[Docket 20553; FCC 80-572]

Cable Television Systems, Termination Proceeding Involving Carriage of Specialty Stations

AGENCY: Federal Communications Commission.

ACTION: Order terminating proceeding in Docket 20553.

SUMMARY: Commission terminates proceeding involving the carriage of specialty stations by cable television systems because the Commission's more general decision deleting the distant signal carriage limits renders this proceeding moot.

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Cable Television Bureau (202) 632–6468.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 76, Subparts A and D of the Commission's Rules and Regulations relative to adding a new definition for "specialty stations" and "specialty format programming" and amending the appropriate signal carriage rules; *Order.*

Adopted: October 3, 1980.

Released: October 15, 1980.

By the Commission:

1. In our *First Report and Order in Docket 20553,* 58 FCC 2d 442, 41 FR 10895 (1976) we exempted "specialty stations" as defined in § 76.5(ii) from the cable television distant signal carriage limitations of our rules. Neither subscription television stations nor stations broadcasting English language ethnic programming were included in the specialty station definition but the Commission did leave the docket open "for potential future determination concerning ethnic and subscription television programming." (para. 43)

2. As a consequence of our *Report and Order in Dockets 20988 and 21284,* FCC 80–443, 45 FR 60186 (1980) more generally eliminating the cable television distant signal carriage limits, the proceeding in Docket 20553 is now moot.

Accordingly, it is ordered, That the proceedings in Docket 20553 are terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–33238 Filed 10–23–80; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

Inclusion in the Definition of "Commercial Fishing Vessel" Those Fishing Vessels, Registered Under United States Law, Which Are Entitled To Be Licensed or Enrolled and Licensed for the Fisheries of the United States

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final regulation.

SUMMARY: The Fishermen's Protective Act reimburses commercial fishermen for losses and costs incurred as a result of the seizures of U.S. commercial fishing vessels by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States. This amendment to program regulations expands the definition of "commercial fishing vessel" to include those vessels that are registered under United States law and entitled to be licensed or enrolled and licensed for the fisheries.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone No. (202) 634–7496.

SUPPLEMENTAL INFORMATION: Current Fishermen's Protective Act regulations restrict benefits to those vessels that are either licensed or enrolled and licensed as fishing vessels of the United States. Although they are eligible for such documentation, many vessels in the United States distant water fleet are neither licensed nor enrolled and licensed, but instead are registered for the foreign trade.

These vessels make a significant contribution to the United States fishing industry and deserve the same benefits other U.S. flag fishing vessels receive.

Accordingly, 50 CFR 258.1(e) is amended as follows:

Delete the definition of "commercial fishing vessel" and insert in lieu thereof the following:

§ 258.1 Definition of terms.

* * * * *

(e) *Commercial fishing vessel.* A vessel licensed or enrolled and licensed as a fishing vessel of the United States (or registered under United States law, and entitled to be licensed or enrolled and licensed for the fisheries of the United States) and catching, transporting, or processing, fish and/or shellfish.

* * * * *

Signed this 20th day of October, 1980, in Washington, D.C.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–33270 Filed 10–23–80; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 258

Fishermen's Protective Act Procedures; Provision for Fees

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final regulations.

SUMMARY: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971–1980) authorizes the fees paid by vessel owners entering into agreement under Section 7. These fees are used to carry out a vessel seizure indemnification program under Section 7. This amendment extends the latest date for paying fees for the 1981 agreement year.

EFFECTIVE DATE: September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone Number: (202) 634–4688.

SUPPLEMENTARY INFORMATION: Fees for the agreement year of October 1, 1980, through September 30, 1981, had previously been payable no later than September 30, 1980. This amendment extends that fee payment deadline to December 1, 1980.

All holders of agreements for the present agreement year who wish them extended through September 30, 1981, by Amendment (rather than entering into an entirely new agreement) must consequently, pay their required fees no later than December 1, 1980. Failure to do so will result in agreements for the 1980 agreement year not being extended for the 1981 agreement year.

This amendment is exempt from the rulemaking requirements of the Administrative Procedures Act (5 U.S.C. 553) and makes no substantive change in the program's conduct.

Regulatory Analysis:

The Assistant Administrator for Fisheries initially determined that this amendment is neither significant under Executive Order 12044 nor requires an environmental impact statement under the National Environmental Policy Act.

Dated: October 20, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

Section 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is amended by amending subsection (b) to read as follows:

§ 258.5 Fees.

* * * * *

(b) Fees paid by an applicant for Guarantee Agreements for the agreement year October 1, 1980, through September 30, 1981, shall be $4.00 per gross ton as listed on the vessel's document. Fractions of a ton shall not be included. Although fees are due on October 1, 1980, all parties holding Guarantee Agreements (by Amendments or otherwise) for the period terminating September 30, 1980, shall have until December 1, 1980 (midnight local time), to pay the fees established herein. Failure to do so by December 1, 1980, will result in non-extension of the previous year's Guarantee Agreement

* * * * *

[FR Doc. 80-33281 Filed 10-23-80; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 208
Friday, October 24, 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

Office of the Secretary

7 CFR Part 8

4-H Club Name and Emblem, Proposed Changes

AGENCY: Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to revise the regulations on authorization for the use of the 4-H Club Name and Emblem as they appear in 7 CFR Part 8. The existing regulations were originally promulgated in 1955. Since that time, there have been a number of changes in the 4-H program, including organizational changes and titles. The purpose of this proposed regulation is to clarify sections of the existing regulations, provide general policies for use of the 4-H name and emblem in local fund raising programs, eliminate sections of the existing regulations which are no longer appropriate, and update regulations throughout in terms of organizational names and titles.

DATES: Written comments must be submitted on or before December 23, 1980.

ADDRESS: Send comments to: Dr. Eugene Williams, Deputy Administrator, 4-H—Youth Programs, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Williams, Telephone: 202/447-5853.

SUPPLEMENTARY INFORMATION: A summary of the proposed changes in the regulations is as follows:

(1) "Administrator, Federal Extension Service" is changed to "Administrator for Extension, Science and Education Administration" wherever the title appears.

(2) A new paragraph (d) is added to § 8.4 to specify that the 4-H Club name and emblem shall not be used to imply endorsement of commercial firms, products and/or services.

(3) Section 8.7 is rewritten for clarity. The basic import is not changed.

(4) Section 8.9 "Use on Calendars" is deleted. Section 8.7 (b) (2) in the proposed regulations establishes overall authority relating to 4-H calendars.

(5) A new § 8.9 "Use in 4-H Fund Raising" is added to provide general policies and requirements in this area.

(6) Section 8.10 is deleted, since this section does not relate directly to use of the 4-H Club name and emblem. General policies on distribution of mailing lists by Cooperative Extension Service employees are included in an Administrative Handbook and/or covered by respective State regulations.

In consideration of the above, it is proposed to revise 7 CFR Part 8 to read as follows:

PART 8—4-H CLUB NAME AND EMBLEM

Sec.
8.1 Policy.
8.2 Delegation of authority.
8.3 Definitions.
8.4 Basic premises.
8.5 Revocation of present authorizations.
8.6 Authorization for use.
8.7 Continued use.
8.8 Use by public informational services.
8.9 Use in 4-H fund raising.

Authority: 5 U.S.C. 301; 18 U.S.C. 707.

§ 8.1 Policy.

The Cooperative Extension Service, of which the 4-H Club program is a part, invites and appreciates the cooperation of all organizations, agencies, and individuals whose interest, products, or services will contribute to the educational effort of the Cooperative Extension Service as conducted through the 4-H Club program.

§ 8.2 Delegation of authority.

The Secretary of Agriculture has delegated to the Director of Science and Education, United States Department of Agriculture, responsibility to authorize use of the 4-H Club Name and Emblem in accordance with these regulations. In keeping with that delegation, the Administrator for Extension, Science and Education Administration, who has been designated responsibility by the Director of Science and Education to conduct the Extension program in the Science and Education Administration has concurrent responsibility to authorize the use of the 4-H Club Name and Emblem in accordance with these regulations.

§ 8.3 Definitions.

The term "4-H Club Name and Emblem" as used in this part means the emblem consisting of green four-leaf clover with stem and the letter "H" in white or gold on each leaflet, or any insignia in colorable imitation thereof, or the words, "4-H Club," "4-H Clubs" or any combination of these or other words or characters in colorable imitation thereof.

§ 8.4 Basic premises.

(a) The 4-H Club Name and Emblem are held in trust by the Secretary of Agriculture of the United States Department of Agriculture for the educational and character-building purposes of the 4-H program and can be use only as authorized by the statute and according to the authorization of the Secretary or designated representative.

(b) The 4-H Club Name and Emblem may be used by authorized representatives of the United States Department of Agriculture, the Cooperative Extension Services of the land-grant institutions, and National 4-H Council according to these regulations, for serving the educational needs and interests of 4-H youth.

(c) Any use of the 4-H Club Name and Emblem is forbidden if it exploits the 4-H programs, its volunteer leaders or 4-H youth participants or the United States Department of Agriculture, Cooperative Extension Services of the land-grant institutions, or their employees.

(d) The 4-H Club Name and Emblem shall not be used to imply endorsement of commercial firms, products, or services.

§ 8.5 Revocation of present authorizations.

Effective January 1, 1981, all authorization permits, except as provided in section 8.6, for the use of the 4-H Club Name and Emblem presently in effect will be revoked. However, such authorizations may be renewed upon written request.

§ 8.6 Authorization for use.

(a) The Director of Science and Education, or his designee may grant authorization for use of the 4-H Club Name and Emblem:

(1) For educational or informational uses which the Cooperative Extension Service deems to be in the best interests of the 4-H program and which can be

properly controlled by the Cooperative Extension Service.

(2) For services to youth which the Cooperative Extension Service determines it is not in a position itself to perform.

(b) Authorizations, when issued, will be valid for specified purposes and periods of time only. Application forms for requesting authorization to use the 4–H Club Name and Emblem may be obtained from the Director of Science and Education, or the Administrator for Extension, Science and Education Administration, United States Department of Agriculture, Washington, D.C. 20250.

(c) Granting an authorization to an individual, organization, or institution for a specific use does not preclude granting a similar authorization to another individual, organization, or institution for the same or a similar purpose.

(d) All uses of the 4–H Club Name or Emblem shall be consistent with the educational purposes, character-building objectives, and dignity of the 4–H program and the 4–H Club Name or Emblem shall be given a position of prominence. It is not permissible to superimpose any letter, design, or object on the 4–H Club Emblem, or to materially alter its intended shape.

(e) Specific authorization is not required to use the 4–H Club Name or Emblem in media such as newspapers, periodicals, and radio and television programs when such use is primarily for educational or informational purposes. Likewise, specific authorization is not required to use the 4–H Club Name or Emblem in those exhibits, displays, etc., which are designed primarily to pay tribute to or salute the 4–H program and are in keeping with the policies enunciated here.

(f) Authorization must be obtained for use of the 4–H Club Name or Emblem by other than representatives of the Cooperative Extension Service and the National 4–H Council in connection with contests and awards; books, booklets, charts, posters, and similar printed materials; all calendars regardless of origin or use; theatrical and nontheatrical motion pictures; slides, slide films, and other visual and audio-visual materials; supplies (whether to be sold or provided without charge); and titles of persons.

(g) Any authorization or permission for use of the 4–H Club Name and Emblem may be revoked at any time after written notice.

§ 8.7 Continued use.

(a) The Cooperative Extension Service, local 4–H Clubs and groups, and other officially affiliated 4–H organizations recognized by the Secretary of Agriculture and the Cooperative Extension Service, except as provided in paragraph (b) of this section, are authorized to use the 4–H Club Name or Emblem:

(1) For their own educational or informational purposes according to these regulations;

(2) On materials which are originated, requested, purchased, distributed, or sold by them for use in their respective geographical areas of responsibilities;

(3) Except as specifically authorized by the above-named organizations for use within the respective geographic boundaries specified (club or group, county, area, State) and as provided for in paragraph (4) of this section, manufacturers, wholesalers, jobbers, retailers, purchasers or others cannot manufacture, sell, or distribute materials bearing the 4–H Club Name or Emblem.

(4) Any proposal for distribution on an interstate, regional, or nationwide basis of materials, supplies, and similar items bearing the 4–H Club Name or Emblem which originates with an organization or individual not affiliated with the Cooperative Extension Service shall be brought to the attention of the Director of Science and Education or the Administrator for Extension, Science and Education Administration, United States Department of Agriculture, for approval.

(b) The National 4–H Council is granted authority to use the 4–H Club Name or Emblem according to these regulations:

(1) The National 4–H Council shall be the official primary source of supplies, paraphernalia, and similar items bearing the name and emblem of 4–H.

(2) The National 4–H Council is delegated the responsibility for arranging and servicing the 4–H Calendar Program. Guidelines and procedures for authorizing the use of the 4–H Club Name and Emblem on any calendar proposed for sale or that involves commercial advertising shall be established and maintained jointly by the National 4–H Council and the Science and Education Administration—Extension, United States Department of Agriculture. All other calendars shall be authorized according to paragraph (a) of this section.

§ 8.8 Use by public informational services.

(a) In any advertisement, display, exhibit, visual and audio-visual material, news release, publication, radio and television program devoted in whole or in part to 4–H, the 4–H message or salute must be distinctly set apart from any commercial product message or reference.

(b) Advertisements, news releases, publications, visuals and audio-visuals, or displays in any form must not include actual or implied testimonials or endorsements of business firms, commercial products or services, either by 4–H Clubs, other 4–H organizations and affiliated groups, 4–H youth participants, volunteer 4–H leaders, the Cooperative Extension Service, USDA, or by any employees associated with any of the foregoing. Statements that a product is used or preferred to the exclusion of similar products are not permitted.

(c) The granting of an authorization to a non-Extension affiliated agency, organization or individual, for production of films, visual and audio-visual materials, books, publications, etc., is contingent upon approval of the initial proposal and subject to review of the script of the visual or audio-visual or draft of the publication when the draft is in the final working form.

§ 8.9 Use in 4–H fund raising.

(a) Fund-raising programs using the 4–H Club Name or Emblem or involving 4–H participants and leaders, may be carried out for specific educational purposes. Such fund-raising programs must have the approval of the appropriate Cooperative Extension office, as follows:

(1) Approval of the County Extension Office if the fund-raising program is confined to a county.

(2) Approval of the State Extension Office if the fund-raising program is multi-county or Statewide.

(3) Approval of the Director of Science and Education or his designee if the fund-raising program is multi-State or Nationawide.

(b) 4–H fund-raising programs may be carried out so long as the products and services sold do not bear the 4–H Club Name or Emblem and are not themselves labeled as 4–H products or 4–H services.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as significant under those criteria. A Draft Impact Analysis has been prepared and is available from Dr. Eugene Williams, Deputy Administrator, 4–H—Youth Programs, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 20th day of October 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-33186 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 230

Suspected Fraud and Criminal Acts in School Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends School Nutrition program regulations to require State agencies to inform the Food and Nutrition Service Regional Office (FNSRO) when they become aware of suspected fraud or other criminal acts in the School Nutrition Programs which would result in the misuse or loss of $1000 or more of Federal funds. FNSRO will refer the information to the USDA Office of the Inspector General (OIG) for possible further review.

DATES: Comments must be postmarked on or before December 23, 1980.

ADDRESSES: Comments may be mailed to Stanley C. Garnett, Branch Chief, Room 4122 Auditors Building, Policy and Program Development Branch, School Programs Division, USDA-FNS, Washington, D.C. 20250. Comments may be inspected at Room 4300-B Auditors Building, Policy and Program Development Branch, School Programs Division, 201 14th Street SW., USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, School Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447-8130. 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 named individual.

SUPPLEMENTARY INFORMATION:

Administrative Procedure

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Background

Pub. L. 95-627, enacted November 10, 1978, amended Section 12 of the National School Lunch Act to provide criminal penalties for fraud, theft and other acts in the Child Nutrition Programs. This regulation will add the requirement that State agencies report suspected fraud and other criminal acts to the Food and Nutrition Service Regional Office. Specifically, these regulations will require State agencies to inform a Food and Nutrition Service Regional Office of all suspected fraud or other criminal acts which would result in the misuse or loss of $1000 or more of Federal funds.

The Department feels that this proposed rule will: (1) Improve monitoring of States' anti-fraud efforts; (2) ensure that cases of potential importance and likely to lead to criminal prosecution are referred to OIG; (3) aid in the prevention and detection of individual fraud and other criminal acts; and (4) ensure that all cases are handled in a reasonable and timely manner.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210 is proposed to be amended as follows:

Section 210.14(h) is amended by adding the following:

§ 210.14 Investigations.

* * * * *

(h) * * * Each State agency shall inform the appropriate Food and Nutrition Service Regional Office (FNSRO) of any suspected fraud or other criminal acts in the School Lunch Programs which would result in the loss or misuse of $1000 or more of Federal funds for referral to OIG for possible further review.

* * * * *

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Accordingly, Part 215 is proposed to be amended as follows:

Section 215.11(e) is amended by adding the following:

§ 215.11 Investigations.

* * * * *

(e) * * * Each State agency shall inform the appropriate Food and Nutrition Service Regional Office (FNSRO) of any suspected fraud or other criminal act in the Special Milk Programs which would result in the loss or misuse of $1000 or more of Federal funds for referral to OIG for possible further review.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

Accordingly, Part 220 is proposed to be amended as follows:

Section 220.13(c) is amended by adding the following:

§ 220.13 Investigations.

* * * * *

(c) * * * Each State agency shall inform the appropriate Food and Nutrition Service Regional Office (FNSRO) of any suspected fraud or criminal acts in the School Breakfast Program which would result in the loss or misuse of $1000 or more of Federal funds for referral to OIG for possible further review.

* * * * *

PART 230—FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM

Accordingly, Part 230 is proposed to be amended as follows:

Section 230.12(c) is amended by adding the following:

§ 230.12 Investigations.

* * * * *

(c) * * * Each State agency shall inform the appropriate Food and Nutrition Service Regional Office (FNSRO) of any suspected fraud or criminal acts in the Food Service Equipment Assistance Program which would result in the loss or misuse of $1000 or more of Federal funds for referral to OIG for possible further review.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555)

Authority: Section 10(a) Pub. L. 95-627, 92 Stat. 3603, (42 U.S.C. 1771)

Dated: October 17, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-33299 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-30-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations

Correction

In FR Doc. 80-30595, appearing at page 65466 in the issue for Thursday, October 2, 1980, make the following changes:

1. On page 65467:

a. The eighth line in column one should read, "The 1.0 percent specified in the ECCs".

b. The fifth line of the first complete paragraph in column one should read, "Control of Combustible Gas".

c. The third line of the first complete paragraph in column two should read, "that: (1) all operating Mark I BWRs be".

d. The first line in column three should read, "accident scenarios. It neglects the".

e. The fourteenth line in column three should read, "such as from the stainless steel steam".

2. On page 65468:

a. The sixth line of the last (incomplete) paragraph in column one should read, "hookup at TMI-2 used the 36-inch".

b. The boldface heading in column two should read, "Hydrogen Recombiner Capability".

3. On page 65469:

a. The sixth line of the second complete paragraph in column two should read, "high levels of radioactivity and to"

b. The seventh line of the third complete paragraph in column two should read, "in order to evaluate the potential dose to".

c. The seventh line of the last (incomplete) paragraph in column two should read, "noble gases to diffuse to the atmosphere".

d. The fifth line of the last complete paragraph in column three should read, "conditions and can influence their".

4. On page 65471, the sixth line in column one should read, "greater than 10⁶R/hr and consist of at".

5. On page 65472, in column three, the eighth line of § 50.44(c)(3)(iv) should read, "control requirements of § 50.44. The".

6. On page 65473, footnote two should read, "[2] or 30 days after the effective date of the rule, whichever is later."

7. On page 65474, the seventeenth line of the first complete paragraph should read, "prevent hydrogen burning—where such".

BILLING CODE 1505-01-M

---

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Consideration of Degraded or Melted Cores in Safety Regulation

Correction

In FR Doc. 80-30596, appearing at page 65474 in the issue for Thursday, October 2, 1980, make the following changes:

1. On page 65475, the last sentence of the second complete paragraph in the second column should read, "Instead, these items simply receive what attention may be dictated by routine industrial codes and by desires to enhance plant availability.".

2. On page 65476, the introductory text and numbered paragraphs 1. through 6. under the heading "Specific Considerations" should read:

"Advice and recommendations on a proposed rule reflecting the foregoing feature and on any other points considered pertinent are invited from all interested persons. Comment is also invited on the extent to which any additional measures should be backfitted. Comments and supporting reasons are particularly requested on the following questions:

"1. If loss of core cooling and resultant core damage occur in a nuclear power plant, there are certain predictable consequences. Can these consequences be mitigated substantially, and the risk of severe public health danger thereby reduced substantially, by practical design improvements? If not, why not, or, if so, what design improvements can be made and at what estimated cost? How would your recommendations affect other safety considerations?

"2. The Three Mile Island accident was terminated after the core was damaged severely but before substantial melting occurred, a condition beyond the current design-basis-accident events considered in the safety analysis. Should the NRC require that events of this type be considered in future safety analyses? If not, why not, or, if so, what criteria would you impose to judge design acceptability?

"3. Although the consequences of core-melt accidents have been considered to some extent in assessing nuclear power plant safety, such as in requirements for siting, emergency response plans, and certain engineered safety features, explicit consideration of the capability of current designs and casualty procedures to cope with core-melt accidents has not been a part of safety analysis scrutiny by the NRC. Should core-melt accidents be specifically evaluated in safety analysis reviews, and, if so, to what extent, or, if not, why not?

"4. Recognizing that there can never be complete assurance that only analyzed events as delineated in a Safety Analysis Report will occur, what additional analyses, procedures, or design features would you propose to mitigate fuel damage accidents in the range from extensive clad perforation without oxidation, through a few percent clad oxidation, through extensive oxidation to full core meltdown? Would you recommend different and perhaps overlapping design features depending on the severity of core damage to be coped with?

"5. To what extent should reactor design and reactor safety analysis account for engineered safety features not working at all, not working well, or being defeated by the operator, resulting in severe core damage? What limits should be placed on multiple failure and operator error assumptions made in safety analyses and how should probabilistic risk assessment be used to determine these limits?

"6. Should the NRC require construction, at each nuclear reactor plant site, of a new structure for controlled filtered venting of the reactor containment structure? Would you limit the function of such a new structure to filtering particulates, elemental iodine, and inorganic iodine or would you include adsorption bed systems using charcoal or other processes so that organic iodine and noble gases could also be trapped? What quantities and release rates of gases and particulates would you design such a structure to handle and at what removal efficiency and cost? Do the potential reductions in risk expected from such a structure offset potential increases in risk that may materialize from incidents such as inadvertent operation or the concentration of hydrogen in the filtering apparatus?"

BILLING CODE 1505-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 112

[Notice 1980-30]

Advisory Opinion Requests, Barring of Withdrawals

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission seeks comments on two alternatives of a proposed regulation to bar the withdrawal of advisory opinion requests by their requestors since the present regulations are silent with respect to any procedure for withdrawal of a request after it is received. Alternative 1 would bar a withdrawal after the date the request has been "sunshined" for the Commission's consideration of an opinion response to the request. Alternative 2 would bar such withdrawals after expiration of 20 days from the date the request was made public at the Commission.

DATES: Comments must be received on or before November 24, 1980.

ADDRESSES: Address comments to Office of General Counsel, Federal Election Commission, 1325 K Street, NW, Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: N. Bradley Litchfield, Assistant General Counsel, 1325 K Street, NW, Washington, D.C. 20463, (202) 523–4039.

SUPPLEMENTARY INFORMATION: The current regulations at 11 CFR 112.1 concern the procedure for properly requesting advisory opinions but are silent with respect to any procedure for withdrawal of a request after it is received. Alternative 1 of the proposed regulation would permit written withdrawal of an advisory opinion request (by the person who made the request) up until the time it is scheduled, by notice delivered to the **Federal Register**, for discussion by the Commission during a public meeting. Any attempted withdrawal after that time would be nugatory and would not foreclose Commission consideration and issuance of an advisory opinion. However, the Commission could by a 4 vote majority allow withdrawal of the AOR.

Alternative 2 would permit withdrawal through the 20th calendar day after a request was made public at the Commission. Under alternative 2, as in alternative 1, an attempted withdrawal after the stated time period would be ineffective. However, the Commission could by a 4 vote majority allow withdrawal of an AOR at any time. The Commission is considering this proposed regulation to obviate the possible abuse of the advisory opinion process by obtaining the views of the Office of General Counsel on a particular legal issue, which are presented in memoranda circulated in advance of the Commission deliberation, and then withdrawing the advisory opinion request before the Commission's scheduled meeting date for consideration of the OGC proposal. The Congressional view of the advisory opinion process is that it "is central to the Commission's responsibility to clarify the Act." H.R. Report No. 96–422, 96th Cong., 1st Sess, page 20. In addition, the fact that persons other than the requestor of an advisory opinion may rely on an opinion if their specific transactions or activities are "indistinguishable in all. . . material aspects," 2 U.S.C. 437f(c), from those presented in an issued advisory opinion, means that a clear public interest arises when an advisory opinion request is submitted. That interest may be thwarted when guidance anticipated to be contained in the opinion is not given because the advisory opinion request is withdrawn after staff work is nearly concluded and the Commission is scheduled to deliberate the issuance of an opinion. The Commission wishes to assure that the advisory opinion process will serve the prescribed statutory function and accordingly invites comments on the alternative proposals to limit withdrawals of advisory opinion requests.

§ 112.1 [Amended]

11 CFR 112.1 is amended by adding subsection (g) as follows:

* * * * *

Alternative 1

(g) An advisory opinion request may be withdrawn in writing by the requesting person at any time before notice is received by the **Federal Register** pursuant to the Government in the Sunshine Act, 5 U.S.C. 552b(g) and 11 CFR 3.5, that the Commission intends to consider a response to the request on a specified meeting date. Advisory opinion requests may not be withdrawn after the described notice is received by the **Federal Register** unless the Commission, by the affirmative vote of four members, agrees to such withdrawal.

Alternative 2

(g) An advisory opinion request may be withdrawn in writing by the requesting person at any time within 20 calendar days after the request was made public at the Commission except that when the 20th calendar day falls on a Saturday, Sunday, or Federal holiday the period is extended to the close of the next business day. Advisory opinion requests may not be withdrawn after expiration of the described 20 day period unless the Commission, by the affirmative vote of four members, agrees to such withdrawal.

Dated: October 20, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80–33233 Filed 10–23–80; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 1001

Ocean Thermal Energy Conversion Regulations

AGENCY: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of availability of funds for public participation in rulemaking.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is preparing licensing and other regulations for ocean thermal energy conversion (OTEC) facilities and plantships, under the authority of the Ocean Thermal Energy Conversion Act of 1980 (Pub. L. 96–320, 42 U.S.C. 9101 *et seq.*; "the Act"). These proposed regulations will appear at a future date. In order to promote a full and fair determination of the issues involved in this rulemaking, NOAA plans to make available $5,000 to compensate participants in the rulemaking who meet the eligibility criteria of NOAA's regulations for financial compensation of participants in administrative proceedings (see 15 CFR Part 904).

DATES: 1. Applications for financial compensation for participation in NOAA's rulemaking to implement the Act must be received by NOAA on or before November 24, 1980.

2. A scoping meeting concerning the environmental impact statement (EIS) being prepared on the rulemaking will be held Thursday, October 30, 1980, from 9 a.m. to 12 noon, in Room 4830 of the Department of Commerce Building, located on 14th Street between E Streets and Constitution Avenue, N.W., Washington, D.C. (For further details concerning the scoping meeting and the EIS, see 45 FR 63543, September 25, 1980.)

ADDRESS: Applications for financial compensation must be sent to: Office of General Counsel, NOAA, Department of Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Brooks J. Bowen, Office of General Counsel, NOAA, Page Building 1, Room 270, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, Telephone: (202) 254–7512.

SUPPLEMENTARY INFORMATION:

A. Issues Involved in the Rulemaking

NOAA's rulemaking to implement the Act will address the construction, location, ownership, and operation of:

(1) OTEC facilities connected to the U.S. by pipeline or cable;

(2) OTEC facilities located in the territorial sea of the U.S.;

(3) OTEC plantships documented under the laws of the U.S.; and

(4) OTEC plantships which are constructed, owned or operated by citizens of the U.S.

In developing these regulations, NOAA will address a wide variety of issues, including:

(1) the content of license applications;

(2) procedures and criteria for licensing OTEC facilities and plantships;

(3) appropriate conditions to be imposed on the license, including but not limited to environmental safeguards;

(4) prevention of interference with other legitimate users of the ocean;

(5) procedures and criteria for the transfer, renewal, suspension, revocation, and termination of licenses; and

(6) enforcement of the Act.

B. Available Fund

A total fund of $5,000 is available to compensate eligible applicants. This fund may be distributed among one or more applicants, or, at the discretion of the Administrator, not distributed at all.

C. Eligible Persons

In accordance with the criteria of 15 CFR 904.3, persons who represent an interest the presentation of which can reasonably be expected to contribute substantially to a fair determination of the issues described above may be eligible for compensation from these funds. In determining eligibility and the amount of compensation, the Administrator will take into account:

(1) Whether the interest will be adequately represented otherwise,

(2) The need to encourage participation by segments of the public who may have little economic incentive to participate;

(3) The importance of the representation to a fair balance of interests;

(4) The number and complexity of the issues presented;

(5) The importance of public participation; and

(6) The applicant's resources available for participation.

D. Eligible Costs

The Administrator may compensate eligible persons for some or all of the reasonable costs incurred in participating, including:

(1) Salaries for participants or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys;

(3) Travel and travel related costs such as lodging, meals, tipping, telephone calls, etc.;

(4) Document reproduction, postage, etc.

E. Procedures for Applying

Applications must be filed with the NOAA Office of General Counsel (see "ADDRESS" section of this Notice), no later than November 24, 1980, and must contain the information required by, and be filed in accordance with, NOAA's financial participation regulations, 15 CFR Part 904 (43 FR 17806; April 26, 1978).

Dated: October 20, 1980.

M. P. Snidero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 80-33154 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. 1

[Docket No. RM80-66]

Affirmative Action in Accordance With Section 604 of the Outer Continental Shelf Lands Act Amendment of 1978; Notice of Inquiry; Extension of Time for Comments

October 21, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Time for Comments.

SUMMARY: On July 11, 1980, the Federal Energy Regulatory Commission issued a Notice of Inquiry involving Affirmative Action in Accordance with Section 604 of the Outer Continental Shelf Lands Act of 1978 (45 FR 49102, July 23, 1980). The Commission's notice prescribed a comment period ending August 18, 1980.

DATE: This comment period is hereby extended to November 15, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33290 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 141

[Docket No. RM80-55]

Revision to Annual Report for Electric Utilities, Licensees and Others (Class A and Class B); Form No. 1, Extension of Comment Period

Issued: October 17, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Comment Period.

SUMMARY: This Notice further extends the written comment period until November 20, 1980 for the Notice of Proposed Rulemaking (issued July 10, 1980) to revise Form No. 1, Annual Report for Electric Utilities, Licensees and Others (published July 16, 1980; 45 FR 47705).

ADDRESS: Comments may be sent to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3329, Washington, D.C. 20426, (202) 357-8318.

Joseph Neubeiser, Office of the Executive Director, Federal Energy Regulatory Commssion, 825 North Capitol Street, N.E., Room 3311, Washington, D.C. 20426, (202) 357-8210.

On July 10, 1980, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking in this docket. The comment period closed September 8, 1980, but in response to numerous requests, it was extended to October 20, 1980.

In the extension notice the Commission invited interested parties to arrange informal meetings with Commission staff to discuss the subject rulemaking. During those meetings, the Commission requested additional written comments with reference to specific issues addressed in the rulemaking. Certain persons have requested another extension to make their submissions.

The Commission hereby extends the comment period until 5:00 p.m., E.S.T., Thursday, November 20, 1980. Comments should be sent to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20246.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33289 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 148

Personal Declarations and Exemptions

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs regulations to provide that a crewmember shall not be considered a returning resident qualifying for the personal exemptions from the payment of duties and taxes allowed under the Tariff Schedules of the United States, unless the crewmember permanently leaves the vessel, vehicle, or aircraft in which he arrived from a foreign port, without the intention of resuming employment on the same or any other carrier engaged in international traffic. The change is proposed to ensure uniform treatment of crewmembers nationwide and to conform the regulations with a headnote of the Tariff Schedules of the United States.

DATE: Comments must be received on or before November 23, 1980.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: James F. Bartley, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

The personal exemptions from the payment of duty and taxes imposed on imported merchandise to which residents and nonresidents of the United States are entitled are set forth in Schedule 8, Part 2A, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). Headnote 3 of Schedule 8, Part 2A, TSUS, provides that a person arriving on duty as an employee of a vessel, vehicle, or aircraft engaged in international traffic, or arriving from a trip during which he was so employed, shall not be entitled to any of the personal exemptions other than those in item 814.00, TSUS, relating to articles for bona fide personal use which will be taken out of the United States, unless he is permanently leaving such employment without the intention of resuming it on the same or another carrier.

Under § 148.65(a), Customs Regulations (19 CFR 148.65(a)), a crewmember may qualify as a returning resident and be entitled to the exemptions allowed under Schedule 8, Part 2A, TSUS, in two situations. Section 148.65(a)(1) reflects the provisions of headnote 3, Schedule 8, Part 2A, TSUS, and provides that a crewmember may qualify as a returning resident if he permanently leaves the carrier without the intention of resuming his employment on the same or another carrier engaged in international traffic. Under § 148.65(a)(2), a crewmember may also qualify as a returning resident if he remains on or transfers to a vessel which is to proceed to another port of the United States in a movement in which entry of the vessel will not be required.

Section 148.65(a)(2) apparently conflicts with the criteria set forth in headnote 3, of Schedule 8, Part 2A, TSUS, and Customs believes that the headnote must take precedence over the Customs Regulations. To resolve this discrepancy and to ensure uniform treatment of crewmembers, it is proposed to amend § 148.65(a) by including subparagraph (1) in the text of paragraph (a) and deleting subparagraph (2). As a conforming change, the reference to paragraphs (1) and (2) of § 148.65(a) would be deleted from § 148.65(b).

Proposed Amendment

It is proposed to amend § 148.65, Customs Regulations (19 CFR 148.65), to read as follows:

§ 148.65 Exemption for resident crewmembers.

(a) *Status as returning resident.* A crewmember arriving in a vessel, vehicle, or aircraft from a foreign port who is a resident of the United States shall be considered a returning resident qualifying for the exemptions allowed under Schedule 8, Part 2A, Tariff Schedules of the United States (19 U.S.C. 1202), and Subpart D of this part if he permanently leaves the carrier without the intention of resuming his employment on the same or any other carrier that is engaged in international traffic.

(b) *Statement of declaration.* A resident crewmember who claims that articles declared by him are entitled to be passed free of duty and tax under the returning resident's exemption, shall include a legible statement on the declaration, Customs Form 5129, of the basis for his claim for entitlement to the resident's exemption.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, sections 498, 624, 46 Stat. 728, as amended, 759, 5 U.S.C. 301 (19 U.S.C. 66, 1202, General Headnote 11, Tariff Schedules of the United States, 1498, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Inapplicability of Executive Order 12044

This document is not subject to the Departmental directive implementing Executive Order 12044, "Improving Government Regulations," because the regulation was in process before May 22, 1978, the effective date of the directive.

Drafting Information

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

Approved: September 19, 1980.

William T. Archey,
For Commissioner of Customs.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-33213 Filed 10-23-80; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 80F-0248]

Use of Salts of Various Fatty Acids as Stabilizers in Polymers; Withdrawal of Proposal and Termination of Rulemaking Proceeding

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a 1973 proposal to amend the food additive regulations to provide for the safe use of a group of salts of fatty acids as components of articles intended for use in contact with food, and to prescribe specifications for all fatty acids and salts of fatty acids permitted in food-contact use. The issue addressed by the proposal is now seen as only one part of the larger issue of dioxin in food, which FDA is continuing to investigate.

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

SUPPLEMENTARY INFORMATION: The agency is withdrawing a proposal published in the **Federal Register** of May 4, 1973 (38 FR 11096), to amend the food additives regulations as follows:

1. In § 121.2566 (Recodified § 178.2010), *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010), by adding to the list of substances in paragraph (b) a group of salts of fatty acids.

2. In § 121.2566 (Recodified § 178.2010), by deleting from paragraph (b) these salts of fatty acids already listed which would be incorporated into the group listing.

3. By adding a new section to prescribe purity specifications for all fatty acids and salts of fatty acids permitted for use in the manufacture of articles that contact food.

The proposal was issued in response to a food additive petition (FAP OB2549) submitted by Monsanto Co., 1101 17th St. N.W., Washington, DC 20036, proposing the addition of various salts of fatty acids to § 121.2566 (Recodified § 178.2010). Notice of filing of the petition was published in the **Federal Register** of June 18, 1970 (35 FR 10050). Monsanto has since requested that their petition be withdrawn. Notice of the withdrawal is published elsewhere in this issue of the **Federal Register**.

The 1973 proposal also reflected FDA's concern about the possible occurrence of impurities in fatty acids and salts of fatty acids authorized for use in articles that contact food. It was proposed that the purity of fatty acids and salts of fatty acids used in such articles be further defined in a new section of the food additive regulations.

FDA's principal concern in proposing these purity specifications was the possibility that fatty acids might contain chick edema factor. Chick edema factor has been chemically identified as consisting of several dioxins, which are extremely toxic chlorinated organic compounds.

Although FDA is today quite concerned about the possibility of dioxin contamination of food, possible chick edema factor in fatty acid-based compounds used in manufacturing food-contact polymers is a relatively small, indistinct element of that concern. Recent studies suggest that dioxins may be ubiquitous environmental contaminants from a wide variety of sources. The agency is actively engaged in several research programs involving dioxins, and hopes soon to be able to better ascertain whether dioxin contamination of food poses any human health hazard. At present, however, little data exist about the prevalence of dioxins in food.

The existence of a potential public health hazard from the uses of the substances covered by the 1973 proposal has not been shown. Regulation of dioxins in those uses is thus not warranted at this time.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 701(a), 52 Stat. 1055, 72 Stat. 1785-1788 as amended (21 U.S.C. 348, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the proposal published in the **Federal Register** of May 4, 1973 (38 FR 11096) to amend the food additive regulations with respect to the food additive use of fatty acids and salts of fatty acids in articles to contact food is withdrawn, and the rulemaking proceeding begun by that proposal is terminated.

Dated: October 17, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-33024 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

Reporting Requirements for Certain Grantor Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations modifying the current information and reporting requirements for certain grantor trusts. The grantor-trustee of trusts covered by these regulations will no longer be required to file Form 1041.

DATE: Written comments and requests for a public hearing must be delivered or mailed by December 23, 1980. These regulations are proposed to be effective for any Form 1040 or Form 1041 required to be filed for any taxable year beginning after [The date of publication of this document as a Treasury decision].

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, [LR-55-79] Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the existing regulations under sections 1.671-4 and 1.6012-3 of the Income Tax Regulations and section 301.6109-1 of the Regulations on Procedure and Administration. These amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (Code) (68A Stat. 917; 26 U.S.C. 7805).

Additional Information

Under section 1.671-4 of the Income Tax Regulations, the Internal Revenue Service requires that the trustee of certain grantor trusts file Form 1041 primarily as an information return and attach a statement showing items of income, deduction, and credit that are treated as owned by the grantor. The trusts are required to furnish their employer identification numbers to payers of income and the payers, in turn, report the trusts as recipients of income on information returns.

The Treasury Department has concluded, however, that in the case of a revocable trust where an individual is both grantor and trustee and where all items of income, deduction, and credit are treated as owned by the grantor under subchapter J of the Code, it should not be necessary for the individual to file a Form 1041 for the sole purpose of attaching thereto a statement showing income which should be reported on his or her individual return. This information can be more easily obtained by requiring the individual to report such items on his or her individual return setting forth the nature and source of the income. New section 1.671-4(b) incorporates this rule.

This change is accompanied by conforming amendments to section 1.6012-3 of the Income Tax Regulations, relating to the filing requirements for fiduciaries, and section 301.6109 of the Regulations on Procedure and Administration, relating to identifying numbers. These amendments eliminate the requirement that a grantor trust referred to in new section 1.671-4(b) obtain an employer identification number. The amendments instead require the owner of such a trust to furnish his or her social security number, or, where applicable, his or her employer identification number, to payers of income. Similarly, payers are

required to report income as if paid to the grantor, not the trust. These changes should eliminate the filing of returns in certain instances in which the trust income is entirely taxed to the grantor.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (perferably 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 this regulation is Stephen J. Small 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.

Adoption of amendments to the regulations:

Acordingly, 26 CFR Parts 1 and 301 are amended as follows:

Paragraph 1. Section 1.671–4 is amended as follows:

a. Section 1.671–4 is redesignated § 1.671–4 paragraph (a).

b. Section 1.671–4(a), as redesignated by this document, is revised to read as set forth below.

c. A new paragraph (b) is inserted to read as set forth below.

d. A new paragraph (c) is inserted to read as set forth below.

§ 1.671–4. Method of reporting.

(a) *Portion of trust income taxed to grantor.* Except as provided in paragraph (b) of this section, items of income, deduction, and credit attributable to any portion of a trust which, under the provisions of subpart E (section 671 and following), part I, subchapter J, chapter 1 of the Code, are treated as owned by the grantor or another person should not be reported by the trust on Form 1041, but should be shown on a separate statement to be attached to that form.

(b) *Trust income entirely taxed to grantor.* In the case of a trust where the same individual (other than an estate or trust) is both grantor and trustee and where that individual is treated as owner of all of the assets held by the trust by reason of a power of revocation under section 676, a Form 1041 should not be filed. Instead, all items of income, deduction, and credit from the trust should be reported on the individual's Form 1040 in accordance with its accompanying instructions. This paragraph (b) shall not apply to a trust if the situs of the trust or any of the assets of the trust are not in the United States. For provisions dealing with taxpayer identifying numbers, see § 301.6109–1 (Regulations on Procedure and Administration).

(c) Effective date. Paragraph (b) of this section is effective for any Form 1040 or Form 1041 required to be filed for any taxable year beginning after [the date of publication of this Treasury decision].

Par. 2. Section 1.6012–3 is amended by inserting a new paragraph (a)(9) as set forth below.

§ 1.6012–3 Returns by fiduciaries.

(a) *For estates and trusts* * * *

(9) *Certain grantor trusts.* A grantor who is trustee of a grantor trust to which § 1.671–4(b) applies should not file a Form 1041 for the trust. Instead, all items of income, deduction, and credit from the trust should be reported on the grantor's Form 1040 in accordance with its accompanying instructions. For provisions dealing with taxpayers identifying numbers see § 301.6109–1 (Regulations on Procedure and Administration).

* * * * *

Par. 3. Section 301.6109–1 is amended as follows:

a. Paragraph 301.6109–1(a) is redesignated § 301.6109–1(a)(1).

b. Section 301.6109–1(a)(1) as redesignated by this document is amended by inserting the paragraph heading "(1) *Social security numbers and employer identification numbers.*" immediately before the first sentence.

c. A new paragraph (a)(2) is inserted to read as set forth below.

§ 301.6109–1 Identifying numbers.

(a) *In general*—(1) *Social security numbers and employer identification numbers.* There are two types of taxpayer identifying numbers: social security numbers and employer identification numbers. Social security numbers take the form 000–00–0000, while employer identification numbers take the form 00–0000000. Social security numbers identify individual persons and estates of decedents, while employer identification numbers identify corporations, partnerships, nonprofit associations, trusts, and similar nonindividual persons. Both types of taxpayer identifying numbers are used by individuals who are employers or who are engaged in trade or business as sole proprietors, as required by returns, statements or other documents and their related instructions. Such documents often require an individual's own social security number in connection with his individual taxes, and his employer identification number in connection with his business taxes.

(2) *Certain grantor trusts.* A grantor trust described in § 1.671–4(b) shall not obtain an employer identification number until such time as the trust is no longer described in § 1.671–4(b). Instead, the grantor of such a trust must furnish his or her social security number (or, where applicable, his or her employer identification number) to payers of income, and payees must report income as if paid to the grantor, not the trust.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–33273 Filed 10–2–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts; Further Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; further extension of comment period.

SUMMARY: This document further extends the period for filing comments regarding a proposed rule intended to revise Part 4 of Title 29 of the Code of Federal Regulations (29 CFR Part 4) which concerns Labor Standards for Federal Service Contracts. This action is taken to permit additional comment from interested persons.

DATE: Comments must be received on or before November 24, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S–3502, 200 Constitution

Avenue, N.W., Washington, D.C. 20210, Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 28, 1979 (44 FR 77036) the Department of Labor published a proposed rule intended to revise 29 CFR Part 4 which concerns Labor Standards for Federal Service Contracts. Interested persons were requested to submit comments on or before February 26, 1980. Extensions of the period for comment, until October 24, 1980, have previously been granted.

Because of the continuing interest in this proposal, the agency believes that it is desirable to grant a further extension of the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 4 (Labor Standards for Federal Service Contracts), is extended to November 24, 1980.

Signed at Washington, D.C., this 22d day of October 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-33444 Filed 10-23-80; 9:46 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 886

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of scheduled public hearing on proposed rules.

SUMMARY: Notice of proposed rules for filing of financial and performance reports pursuant to State reclamation grants was published September 23, 1980 (45 FR 63002-63004). The notice scheduled a public hearing on the proposed rules for November 12, 1980, to be held at the Department of the Interior Auditorium at 9:00 a.m. The notice also included provisions for cancelling the hearing unless a significant number of requests were received by October 13, 1980.

No comments were received by the Office of Surface Mining by October 13, 1980, and therefore the public hearing scheduled for November 12, 1980, beginning at 9:00 a.m. at the Department of Interior Auditorium, 18th and C Streets, NW, Washington, D.C. 20240, is cancelled.

DATE: Written comments on the proposed amendments must be received by November 24, 1980, by no later than 5:00 p.m.

ADDRESSES: Written comments may be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20004, Attention: James Fulton.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Office of Surface Mining, Abandoned Mine Lands, State and Indian Reclamation Programs, U.S. Department of the Interior, Washington, D.C. 20245 (202) 343-4511.

Dated: October 17, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-33186 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 913

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of reopening of public comment period on the Illinois abandoned mine lands reclamation program submission.

SUMMARY: The Director of OSM is reopening the period for review and comment on the proposed Abandoned Mine Land Reclamation Plan for the State of Illinois. Illinois submitted a proposed permanent regulatory program on March 3, 1980, which at this time has not been approved. In compliance with 30 CFR 884.14, OSM will continue the period of review of the proposed Illinois abandoned mine lands reclamation program at least until a final decision is made by the Secretary on the Illinois permanent regulatory program. In order to allow full and effective public participation during this period, OSM is reopening the public comment period on the proposed Illinois abandoned mine land reclamation program until further notice.

DATE: The period for public comment is extended until further notice.

ADDRESS: Written comments should be delivered to Richard D. McNabb, Assistant Regional Director, AML, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204.

FOR FURTHER INFORMATION CONTACT: Richard D. McNabb, Assistant Regional Director, AML, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: 317/269-2646.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an Abandoned Mine Land Reclamation Program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State Reclamation Plan, demonstrating its capability for administering an abandoned mine reclamation program. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

On July 22, 1980, the State of Illinois submitted to OSM its proposed Abandoned Mine Lands Reclamation Plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Notice of Receipt of the Illinois Reclamation Plan and establishment of a period for public comment until August 27, 1980, were published in the **Federal Register** on July 28, 1980, (45 FR 49958-49959). To insure prompt and expeditious review, OSM regulations require the Director to approve, disapprove or otherwise act upon a State reclamation plan within 60 days after it is submitted or after a State regulatory program is approved, whichever is later. Illinois submitted a proposed permanent regulatory program on March 3, 1980, which at this time has not been approved. In compliance with 30 CFR 884.14, OSM will continue the period of review of the proposed Illinois abandoned mine lands reclamation program at least until a final decision is

made by the Secretary on the Illinois permanent regulatory program. In order to allow full and effective public participation during this period, OSM is reopening the public comment period on the proposed Illinois abandoned mine land reclamation program until further notice. In addition, OSM has accepted those comments received after the close of the original public comment period. Copies of all comments received are available for review along with proposed Illinois abandoned mine land reclamation program at the address listed above.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.*, (December 13, 1978).

The Department has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Dated: October 14, 1980.

Paul L. Reeves,

Acting Director.

[FR Doc. 80-33189 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 944

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Utah Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Approval in part/disapproval in part of the Utah permanent regulatory program.

SUMMARY: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Utah program partially meets the minimum requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior is approving in part and disapproving in part the Utah program. Utah will not assume primary jurisdiction for implementing SMCRA until its entire program receives approval.

DATE: Utah has until December 23, 1980 to resubmit revisions of its program for the Secretary's consideration.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4225.

ADDRESSES: Copies of the Utah program and the administrative record on the Utah program are available for public inspection and copying during business hours at:

Division of Oil, Gas & Mining, 1588 West North Temple, Salt Lake City, Utah 84116, Telephone: (801) 533-5771.

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837-5421.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Ave., NW., Washington, D.C. 20240, Telephone: (202) 343-4728.

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into six major parts.

A. General Background on the Permanent Program

B. General Background on the State Program Approval Process

C. Background on the Utah Program Submission

D. Secretary's Findings

E. Disposition of Comments

F. Secretary's Decision

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Part B sets forth the general statutory and regulatory scheme applicable to all states which wish to obtain primary jurisdiction to implement the permanent program within their borders.

Part C summarizes the steps undertaken by Utah and officials of the Department of the Interior, beginning with Utah's initial program submission and its subsequent amendments and additional materials, and leading to the decision being announced today.

Part D contains the findings the Secretary has made with respect to each of the criteria for evaluation of a state program found in SMCRA and the Secretary's regulations.

Part E contains detailed analysis of relevant public comments with respect to the Utah program.

Part F identifies and explains the Secretary's decisions.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received State permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710-725, 42 FR 62639 *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather then the federal government, will be the primary regulator of activities subject to SMCRA.

The federal rules for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state program must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56064) and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15312-15463 (March 13, 1979). Errata notices were published at 44 FR 15485 (March 14, 1979), 44 FR 49673-49687 (August 24, 1979), 44 FR 53507-53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980), and 45 FR 47424 (July 15, 1980).

Amendments to the regulations have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), 44 FR 75302-75303 (December 19, 1979), 44 FR 77440-77447 (December 31, 1979), 45 FR 2626-2629 (January 11, 1980), 45 FR 25998-26001 (April 16, 1980), 45 FR 33926-33927 (May 20, 1980), 45 FR 37818 (June 5, 1980), 45 FR 39446-39447 (June 10, 1980), and 45 FR 52306-52324 (August 6, 1980).

Portions of these rules have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44

FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. Section 30 CFR 732.11(d) initially provided that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program must be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in 30 CFR 732.13 (45 FR 33927, May 20, 1980).

The Utah program was submitted to OSM on March 3, 1980. The 104th day after March 3 was June 16, 1980.

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the State bases its program must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will provide an opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing State programs, is complying with the provisions of Section 503 of SMCRA (30 U.S.C. 1253) and 30 CFR 732.15. In reviewing the Utah program, the Secretary has used the criteria of the Federal rules as corrected, amended, and suspended in the **Federal Register** notices cited above under "General Background on the Permanent Program" and as affected by decisions of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, February 26, May 16 and August 15, 1980). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

There have been three recent decisions from the District Court that affect the decision-making process. Because of the complex litigation, the court has issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, rejected several generic attacks on the permanent program regulations, but resulted in suspension or remand of all or part of 22 specific regulations. The Round II opinion, dated May 16, 1980, rejected additional generic attacks on the regulations, but remanded some 40 additional parts, sections, or subsections of the regulations.

The court also ordered the Secretary to "affirmatively disapprove, under Section 503 of SMRCA, those segments of a State program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve program provisions equivalent to remanded or suspended Federal provisions in the three circumstances described in paragraph 1 below.

Therefore, the Secretary is applying the following standards to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a State program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and in State courts. Accordingly, these provisions are not being pre-empted or superseded, although the Secretary may have the power to do so under Section 505(b) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation. Nonetheless, a state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based remanded or suspended regulations.

4. A state program may not contain any provision which is inconsistent with a provision of SMCRA.

5. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally or disapproved in whole or in part in accordance with 30 CFR 732.13.

6. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as a result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604). A notice of the availability of a proposed list of Utah provisions incorporating the suspended or remanded federal regulations was published at 45 FR 46820–46826 (July 11, 1980).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Utah will be found in 30 CFR Part 944.

C. Background on the Utah Program Submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Utah. The program was submitted by the Division of Oil, Gas and Mining, the state agency which will be the regulatory authority under the Utah permanent program. Notice of receipt of the submission initiating the program review was published in the March 11, 1980 **Federal Register** (45 FR 15584–15586) and in newspapers of general circulation within the state. The announcement noted information for public participation in the initial phase of the review process relating to the Regional Director's determination of whether the submission was complete.

Utah submitted a "corrected set" of its section-by-section comparison of the state and the federal regulations on March 12, 1980. The "corrected set" included provisions of the state's promulgated regulations that had been erroneously omitted from the March 3 proposed program submission package. The missing provisions included UMC/SMC Part 795, UMC/SMC Part 900, UMC/SMC 843.13 (c) and (19)(g) and UMC/SMC 845.19(a–c).

On April 11, 1980, the Regional Director held a public review meeting on the program and its completeness in Salt Lake City, Utah. The public comment period on completeness began on March 11, 1980 and closed on April 21, 1980.

On April 29, 1980, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be complete (45 FR 28367–28368). The notice specified that the submission included all elements required by 30 CFR 731.14(g).

On June 23, 1980, the Regional Director published notice in the **Federal Register** (45 FR 41972–41973) and in the newspapers of general circulation within the state that the revisions to the Utah permanent program submission were available for public review and comment. The notice set forth procedures for the public hearing and comment period on the substance of the Utah program.

On July 11, 1980 the Director published a notice in the **Federal Register** (45 FR 46820–46826) to afford interested persons an opportunity to review and comment on a proposed list of Utah provisions which incorporate suspended or remanded rules in accordance with the district court opinion discussed above under "General Background on the State Program Approval Process."

On July 21, 1980, the Regional Director held a public hearing on the Utah submission in Salt Lake City, Utah. The public comment period on the Utah permanent regulatory program ended on July 24, 1980.

On June 16 and July 24, 1980, the Division of Oil, Gas and Mining submitted the following additional comments. The proposed amendments to the Utah rules submitted on these dates could not be considered by the Secretary in reaching his decision because they were not fully enacted by the 104th day after initial program submission:

1. Utah state program amended text and clarifications for parts E–O (narrative) of the March 3, 1980, program submission.

2. Proposed amendments to the Utah rules and regulations—July 22, 1980 and June 16, 1980.

3. The Utah "state window" submission for steep slope, underground coal mining, grading and backfilling.

4. Legal opinion of State Attorney General satisfying requirement of Part C (narrative) of the March 3, 1980 program submission.

5. Utah State Program Guidelines for Vegetation Information requirements of the state program.

On August 20, 1980, the Secretary published a notice of the availability of the views on the Utah program submission submited by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and other Federal agencies (45 FR 55477).

On August 25, 1980, after a review of the revised Utah program, the Regional Director submitted to the Director of OSM, his recommendation that the Utah program be approved in part and disapproved in part, along with the copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record. This modified an August 6, 1980 recommendation that the Utah program be conditionally approved.

On September 30, 1980, the Director recommended to the Secretary that the Utah program be approved in part and disapproved in part.

On Setember 23, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Utah program relating to the air and water quality standards being approved today. The Administrator stated that his concurrence does not extend to those regulations that were still in proposed form on the 104th day from the date of the initial submission. He further reserved the right under Section 503(b) of SMCRA to review such regulations for concurrence or nonconcurrence when they are resubmitted in enacted form.

Elements Upon Which the Secretary Evaluates the Utah Program for This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process," the Secretary sets forth the elements of the proposed Utah program upon which the findings and decisions below are being made.

(a) Because of the 104 day rule, promulgated May 20, 1980 (30 CFR 732.11(d), 45 FR 33927), only those statutory provisions and regulations that were fully enacted on or before June 16, 1980, are being considered as a basis for this decision. The purpose of the 104 day rule is to allow an opportunity for comment on the proposed state statute and regulations. Because the proposed Utah regulations were not fully enacted and because there has been little opportunity for public comment, the Secretary cannot consider the proposed Utah regulation changes of June 16 and July 24, 1980 in reaching his decision at this time.

(b) The program narrative received March 3, 1980, as amended July 24, 1980, has been reviewed and will be considered as a basis for this decision.

(c) The statutes and regulations that the Secretary is reviewing under (a) and (b) above include provisions that must be disapproved in accordance with the district court's order. However, the Secretary's decision is being made without regard to the effect of the disapproval of those regulations on the other parts of the program.

D. Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Utah partially has the capability to carry out the provisions of SMCRA and to meet its purposes.

(a) The Utah Coal Mining and Reclamation Act (Utah CMRA) and the Utah Coal Mining and Reclamation Regulations adopted thereunder partially provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Utah. Deficiencies in the Utah CMRA and the regulations promulgated thereunder are discussed below and in Findings 4(a)–4(t).

(i) Section 507(c) of SMCRA concerning criteria for the establishment of a Small Operator Assistance Program requires that under certain circumstances the regulatory authority pay for the required determination of probable hydrologic consequences and the statement of results of test borings and core samplings. The Utah CMRA limits this requirement by adding the phrase in Section 40–10–10(c) "contingent upon receipt of funding from the Office of Surface Mining." This limitation lessens the requirement that all small operators be provided this service and is therefore inconsistent with and less stringent than the federal requirement.

(ii) Section 510(b)(5)(B) of SMCRA requires that a permit application or permit revision not be approved by the regulatory authority unless the application or revision affirmatively demonstrates and the regulatory authority finds, based upon information in the application, that the proposed surface coal mining operation would not materially damage the quantity or quality of water in surface and underground water systems that supply alluvial valley floors. The above section grants an exemption to those operations which in the year preceding the effective date of SMCRA (August 3, 1977) produced coal in commercial quantities or had obtained specific permit approval by the regulatory authority to conduct operations within the alluvial valley floors. Utah, in Section 40–10–11(2)(e)(ii) UCA, allows an additional nineteen months for this "grandfathering" of alluvial valley floors by referencing the effective date of its act, March 30, 1979, rather than the effective date of SMCRA, August 3, 1977. This additional time is inconsistent with and less stringent than the environmental protection standards of SMCRA and is therefore unacceptable.

(iii) Section 510(d) of SMCRA requires that if the area proposed to be mined contains prime farmland, the regulatory authority may grant a permit to mine on the prime farmland only after making the determination that the operator can restore the mined area to meet prescribed productivity and soil reconstruction standards. This requirement applies only to permits issued after the enactment of SMCRA, August 3, 1977. Any permit issued prior to August 3, 1977, any revision or renewal of the permit, and any existing surface mining operation for which a permit was issued prior to August 3, 1977 are exempt from the prime farmland requirement of Section 510(d)(2) of SMCRA. Utah, in Section 40–10–11(4) UMC, requires that the prime farmlands permit requirements apply only to permits issued after February 3, 1978. Utah further provides an exemption for permits issued prior to March 20, 1979 or existing surface mining operations for which a permit was issued prior to March 20, 1979. This additional time allowed by the state is inconsistent with and less stringent than the environmental protection standards of SMCRA and is therefore unacceptable.

(iv) The state statute contains several errors. The statute's reference in 40–10–17(2)(j)(ii)(B) UCA to "(2)(h)(ii)" should be to "(2)(j)(ii)". In 40–10–16(4) UCA, the word "approves" should be "disapproves," as set forth in Section 519(d) for SMCRA. That section of SMCRA prescribes that if the regulatory authority disapproves the application for bond release, the regulatory authority must notify the permittee of the reasons for disapproval and recommend corrective action.

(v) UCA 40–10–21 allows a suit against the United States in state court. The Secretary does not agree to submit to the jurisdiction of the Utah courts in all circumstances involving lawsuits under SMCRA or the Utah program. Accordingly Section UCA 40–10–21 of the UCA is disapproved, since it purports to grant the Utah courts jurisdiction over the Secretary in these areas.

(vi) Subsection 516(b)(1) of SMCRA requires operators to take steps consistent with known technology to prevent and mitigate damage from subsidence to the extent technologically and economically feasible, except where the mining method used involves planned subsidence and with the proviso that "nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining * * *". Section 40–10–18 UCA has the same provisions, except that the proviso declares that "nothing in this subsection shall be construed to prohibit the standard methods of mining." Because it is unclear whether this is intended to apply to methods other than planned subsidence and room and pillar, which are the only methods specifically preserved under the Federal statute, the Secretary disapproves UCA 40–10–18. This problem could be solved by a statutory change or by evidence in the record demonstrating that Utah interprets its provision to apply only to the two methods of mining given special status under SMCRA.

(b) The Secretary finds that the Utah program partially provides sanctions for violations of Utah laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions partially meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Utah Division of Oil, Gas and Mining or its inspectors. Deficiences in this area are noted in Finding 4(d).

(c) The Utah Division of Oil, Gas and Mining has sufficient administrative and technical personnel and sufficient funds except as noted in Finding 4(t) to enable Utah to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Utah law partially provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for

the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Utah. Deficiencies in this area are discussed in Finding 4(d).

(e) Utah has partially established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA. Deficiencies in this area are discussed in Finding 4(k).

(f) Utah has established, for the purpose of avoiding duplication, a process for coordinating the review and issurance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations.

(g) Utah has fully enacted regulations which are partially consistent with regulations issued pursuant to SMCRA. A more detailed discussion of this area can be found in Finding (4) below;

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 USC 1235(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Utah program.

(b) Requested the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Utah program which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1151–1175) and the Clean Air Act (42 U.S.C. 7401 *et seq.*). These concurrences are outstanding pending Utah's correction of deficiencies identified in the findings in (4) below.

(c) Held a public review meeting in Salt Lake City, Utah, on April 11, 1980, to discuss the Utah program submission and its completeness and held a public hearing in Salt Lake City, Utah, on July 21, 1980, to receive comments on the substance of the Utah program submission.

3. In accordance with Section 503(b)(4) of SMCRA, the Secretary finds that the State of Utah does not fully have the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII, because all necessary regulations have not been enacted and the proposed staffing levels are not sufficient to adequately administer the permanent program. (See Finding 4(t) below).

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Utah program submission, including the section-by-section comparison of the Utah law and regulations promulgated by June 16, 1980 with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, subject to the exceptions discussed in this Finding, that:

(a) The Utah program partially provides for the state to carry out the provisions and meet the purpose of SMCRA and 30 CFR Chapter VII. Utah has promulgated two sets of regulations for the regulation of surface coal mining operations. There are Utah regulations for surface coal mining activities (SMC) and separate Utah regulations for the surface effects of underground coal mining activities (UMC).

(b) Utah has proposed the following alternate approach to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13:

(i) Performance Standards for Steep Sloop Grading and Backfilling—Section 515(b)(3) of SMCRA requires operators to backfill and grade in order to restore the approximate original contour (AOC) of the land with all highwalls * * * eliminated * * *" 30 CFR 817.101 and .102 implement this statutory requirement. The basic purpose of backfilling and grading is to reshape the disturbed area to AOC to minimize erosion and water pollution and prevent slides. 44 FR 15271 (March 13, 1979). Utah proposed (July 24, 1980 submission) to allow the reduction rather than the elimination of the highwall in those cases where, as determined by the Division, the reduced highwall would meet requirements associated with approximate original contour, mass stability and hydrologic balance.

Utah states that its unique topography and geology require consideration of alternative regulatory provisions which reflect the environmental conditions of the state. Ninety-six percent of Utah's 1977 nine million ton coal production was mined from the Wasatch Plateau Field and the Book Cliffs Field. In these areas, the bench and steep topography resembles what could be called a "natural highwall." The elimination of highwalls in all cases will not achieve Section 515(b)(3)'s objective of "restoring the approximate original contour of the land." Utah believes that not eliminating the highwall in all cases will also minimize disturbances to the area. Further, Utah underlines the fact that it is not proposing that highwalls never be eliminated, but rather that the decision not to eliminate highwalls must be approved by the Division and that the resulting terrain must be compatible with the natural surroundings.

In reviewing Utah's proposed alternative the Secretary considered the circumstances unique to Utah. All statistics used in the Secretary's consideration of this alternative are taken from the Utah proposal, which cites technical publications as its authority.

Utah is divided into four major physiographic provinces: Basin and Range (northwest part of the state), Basin and Range-Colorado Plateau Transition (southwest part of the state), Middle Rocky Mountains (northeast part of the state) and the Colorado Plateau (the eastern side of the state).

All of Utah's major coal fields lie either in the Basin and Range-Colorado Plateau Transition or the Colorado Plateau Province. In these two areas, the Wasatch Plateau Field and the Book Cliff field produced approximately 90% of Utah's twelve million tons of coal in 1979. Approximately 44% of the known coal reserves in Utah are contained in these two coal fields, whose mean percent slopes are 56% and 61%. With the addition of the Kaiparowits Fields, with an average percent slope of approximately 45%, which is in the Colorado Plateau in the lower southeastern part of the state, approximately 85% of the known coal reserves in the state are in steep slope areas.

The coal deposits in the major coal fields, Wasatch Plateau, Book Cliffs and Kaiparowits, lie in Cretaceaous rocks. As a result of regional uplift and local uplift by faulting with post uplift erosion, the formations with Cretaceous rock are characterized by a natural bench and steep topography. The coal lies in outcrops in the non-marine and marine rocks which are resistent to erosion and which lie above the less erosion resistent mudstone or shale. Hence, the coal is exposed in deep, narrow canyons on the faces of what Utah characterizes as naturally occurring highwalls, formed over centuries.

The climate of the area is arid to semi-arid. The area's precipitation comes in two forms: Winter snow storms and summer thunderstorms. The thunderstorms occur with great intensity but are of short duration. The average annual precipitation for the major coal fields ranges from 8 to 16 inches. The temperatures in the summer are in the 80°–90°F range and are below freezing for several weeks at a time in the winter. As a result of these two factors, the vegetation in the area is sparse.

The lack of vegetation, high soil erosion characteristics and type of

precipitation events have contributed to the formation of deep, narrow canyons with precipitous barren cliffs which contain the natural coal outcropping. Due to the rapidly increasing overburden thickness in the areas with these outcroppings, most of the portal areas lie along the steep outcrop of the coal, with very limited development of shaft portals into the coal seam.

The result of this method of extracting the coal is the development of benches, roads, and other surface operation facilities in the steep, narrow canyons. Specifically, portal entries and road surfaces are constructed from the spoil removed from the face-up areas. The use of the spoil in constructing the stable fills for these surface operations reduces the volume of material removed from the face. Hence, there is less of a disturbance to the affected surface area. These facilities are generally designed to last 30 to 40 years.

Utah argues that reclamation of these areas through the elimination of the face-cut or highwall in all cases could be environmentally unsound and counterproductive to reclamation requirements. Utah states that complete elimination of a highwall in a narrow canyon with average slopes of 30° by backfilling to the angle of repose could create several problems. Due to the climate, scarcity of vegetation, type and nature of precipitation, the slope could be subject to excessive erosion. Further, a static safety factor of 1.3 would be difficult to achieve. On the other hand, backfilling to a lesser angle, such as 2h:1v or 3h:1v, would be impracticable because there would not be enough material from the original cut to achieve the desired slope. An attempt to reduce the face cut by blasting material from above the cut would probably cause slumping of material from the entire height of the canyon. Hauling the needed backfill material in from other sites would only create more suface disturbance.

The Secretary finds that the mandate of Section 515(b)(3) of SMCRA to restore the land to AOC with all highwalls eliminated contains an inherent internal contradiction when it is applied to the specific areas of Utah described above, with their natural bench and steep topography. In such terrain, elimination of the highwall would not restore the land to AOC, since its original contour was a natural cliff which was similar in its contour to a highwall.

Faced with this contradiction within SMCRA, the Secretary must harmonize the statute in a reasonable manner under his general authority contained in Section 201(c)(2). There is ample precedent for such an action. In *Citizens to Save Spencer Cty.* v. *Environmental Protection Agency*, 600 F.2d 844 (D.C. Cir. 1979), the court upheld EPA regulations which designed to strike a reasonable balance between conflicting provisions of the Clean Air Act. These regulations were based on the agency's general rulemaking authority. The court held that where inconsistent provisions point generally in a common direction, the implementing agency is to "look for guidance to the statute as a whole and to consider the underlying goals and purposes of the legislature in enacting the statute * * *" 600 F.2d at 871. The key to such a reasonable harmonization is to heed Congressional objectives. 600 F.2d at 869; *Clark* v. *Uebersee Finanz-Korp*, 332 U.S. 480, 489 (1947).

Here, the Congressional objectives of protecting the environment, as expressed in Section 102 of SMCRA, guide the Secretary in harmonizing the AOC and highwall elimination requirements. As discussed above, it is more environmentally desirable to allow a limited exception to the highwall elimination requirement in the particular environment involved.

Furthermore, the phrasing of these two requirements also suggests that the requirement to return the area to its natural AOC should prevail. Section 515(b)(3) requires backfilling and grading to restore AOC "with all highwalls, spoil piles, and depressions eliminated," thus suggesting that highwall elimination, like elimination of spoil piles and depressions, is part of the definition of AOC, rather than being a completely separate, independent requirement. The definitions section, 701(2), bears this out. The "with all highwalls eliminated" language appears as part of the definition of AOC.

For these reasons, the Secretary agrees with the concept that a carefully limited exception to highwall elimination would be consistent with SMCRA. However, the provision contained in UMC 817.101(b)(1), which would implement the proposed alternative, is deficient in that it does not specifically state that the alternative applies only to underground coal mining activities in terrain with steep slopes composed of rough steep escarpments. The provision is also deficient because it allows the Division, as it determines to be "practical and appropriate," to apply the alternative of not eliminating highwalls to all cases. The lack of defined criteria for the Division's determination to apply this alternative makes this provision deficient in that it could allow the retention of highwalls in situations where the unique topographical justification was lacking. Further, the state section is inconsistent with 30 CFR 817.101(b)(1) because it allows the reduction rather than elimination of depressions and spoil piles. Utah must correct these deficiencies before the proposed alternative approach can be considered for approval by the Secretary.

(c) The Secretary finds that the Utah law and regulations concerning performance standards are partially consistent with SMCRA and Subchapter K of 30 CFR Chapter VII.

(i) As a result of having one set of regulations for underground mining and one set for surface coal mining, Utah developed definitions not contained in the federal regulations to describe actions associated with underground mining. Utah defines "underground coal mining activities", "surface effects of underground activities," "surface operations," and "underground operations" in UMC 700.5 to address the points covered in the definitions in 30 CFR 701.5 of "surface coal mining and reclamation operations" (as it applies to surface activities associated with underground mining) and "underground mining activities". Utah does not specifically define or use the term "underground coal mining and reclamation activities". However, Utah does not include in its definition of "underground operations" the reclamation of shafts, audits, underground support facilities, in situ processing, underground mining, hauling, storage and blasting. Further, the reclamation of roads is not included in the State's definition of "surface operations". These omissions result in state provisions that are inconsistent with and less stringent than the federal provisions in 30 CFR 701.5.

(ii) The definition of "coal exploration" in 30 CFR 701.5 includes (a) the field gathering of surface and subsurface data and (b) the gathering of environmental data. The definition of "coal exploration" in UMC/SMC 700.5 is deficient because the state fails to address the gathering of environmental data. The deletion of this provision makes the state definition less stringent than and inconsistent with the federal definition. The regulatory authority would not have authority over these activities and therefore could not guarantee the environmental protection standards of Sections 512 and 515 of SMCRA.

(iii) Utah, in UMC/SMC Section 700.5, adds the phrase "and other materials as determined in accordance with UMC 817.22(e)/SMC 816.22(c)" to the definition of "topsoil" in 30 CFR 701.5. The state uses the term "topsoil," in UMC 817/SMC 816.21–.25 in the same

manner as in 30 CFR 817/816.21–.25. This construction makes the Utah regulations internally inconsistent, as the provisions allowing the use of substitute materials in UMC 817/SMC 816.22(e) (30 CFR 817/816.22(e)) would then envision a substitute for a substitute and not for the baseline topsoil material. Utah should amend its definition of topsoil to make that term consistent with the use of that term in its regulations.

(iv) Utah, in UMC/SMC Section 700.5, deletes ASTM Standard D388.77 from the definition of "coal" in 30 CFR 701.5. This ASTM Standard establishes standards for tests for determining if a material is coal. This omission has the effect of making the state definition less comprehensive than the federal definition by not setting forth standards for determination of whether a material is coal and is therefore unacceptable.

(v) 30 CFR 701.5 defines "head-of-hollow fill" and "valley fill" as fill structures "consisting of any material, other than coal processing waste and organic material. . . ." The state's definitions of "head-of-hollow fill" and "valley fill" in UMC/SMC 700.5 include the use of "nonacid and nontoxic forming coal processing waste and coal waste" as acceptable fill material. To the extent that the State definitions allow the use of these prohibited materials in the fill, they are inconsistent with the federal requirement and are therefore unacceptable.

(vi) The definition of "applicant" in UMC 701.5 refers to a person seeking a permit to conduct "surface coal mining and reclamation activities" rather than "underground coal mining and reclamation activities" and is therefore inconsistent with the federal requirement, 30 CFR 701.5, which covers underground as well as surface activities.

(vii) 30 CFR 816.23 (b)(1)(ii) and 817.23(b)(1)(ii) require that stockpiled materials be placed in a stable area, not disturbed, and protected from wind and water erosion, unnecessary compaction and contaminants that would reduce the capability of the material to support vegetation when redistributed. The corresponding regulations, SMC 816.23(b)(1)(ii) and UMC 817.23(b)(1)(ii), add a provision that allows the Division to approve alternative storage methods in operations such as pads, parking lots and road embankments when it has been demonstrated and approved by the Division as providing protection equal to that prescribed in the above State sections. These storage methods will tend to make the stored materials difficult to use in reclamation because of excess compaction and possible contamination, and the federal requirement does not contain any such exception. The Utah regulations are less stringent than the federal requirement.

(viii) 30 CFR 817.42(a)(3)(ii)(A) requires that "For drainage from areas affected by surface operations and facilities, an exemption [to the sedimentation pond requirements] may be authorized only if the disturbed surface area within the disturbed area is small and there is no mixture of surface drainage with a discharge from underground mine workings." The state, in UMC 817.42(a)(3)(ii)(A), deletes this limiting requirement and therefore would allow exemptions to be granted which are prohibited by the federal rules. This is less stringent than the federal requirement.

(ix) 30 CFR 816.43(b) and 817.43(b) require that permanent diversions be constructed with "gently sloping" banks that are stabilized by revegetation. The state in its corresponding sections, SMC 816.43(b) and UMC 816.43(b), deletes the term "gently." This deletion reduces the state's ability to impose requirements on the operator; under the federal rule, the regulatory authority would be able to decide what slope it considers to be "gentle" and require the operator to construct its permanent diversion channel accordingly.

(x) The definition of "intermittent stream" in SMC/UMC 700.5 does not include drainages with areas greater than one square mile, as does 30 CFR 701.5. Further, Utah adds a requirement that the stream must flow for thirty consecutive days per year. Thus, many drainages covered by 30 CFR 816.44(a) and 817.44(a) are not covered in Utah's regulations, making the state definition inconsistent with and less stringent than the federal requirements.

(xi) 30 CFR 816.45(a) and 817.45(a) require that "appropriate sediment control measures shall be designed, constructed and maintained using the best technology currently available to prevent to the extent possible additional contributions of suspended solids to stream flow or runoff outside the permit area and to achieve and maintain applicable effluent limitations." The Utah regulations, SMC 816.45(a) and UMC 817.45(a), provide that sediment control measures must be "maintained fully considering the environmental impact of the control measure and using the best technology currently available that is best suited to the site." SMC 816.46(a) and UMC 817.46(a) provide that sedimentation ponds be used "when it is determined that sedimentation ponds are necessary to meet the requirements of this part," rather than the mandatory "shall be used" prescribed in 30 CFR 816.46(a) and 817.46(a). These provisions could allow broad exemptions, not allowed by the federal regulations, to the requirements that sediment ponds shall be used, and that the "best technology currently available" be used in sediment control. These exemptions render Utah's provisions less stringent than the federal standards and are therefore unacceptable.

(xii) 30 CFR 816.46(o) and 817.46(o) specify that in no case may coal processing waste be used as fill material in sedimentation ponds. In SMC 816.46(o) and UMC 817.46(o), Utah allows the use of coal processing waste as a fill material in sedimentation ponds if it is non-acid and non-toxic forming and of a quality suitable as a construction material for its intended use as demonstrated by standard engineering and chemical testing. The Utah regulation provides a standard expressly prohibited by the federal rules and is therefore unacceptable.

(xiii) SMC 816.49 and 817.49 omit the requirement found in 30 CFR 816.49 and 817.49 that excavations that will impound water during or after mining not be steeper than 2v:1h. This deletion could allow variances not allowed by the federal regulations. Further, in the same sections, the state deletes the requirement of (f) that all dams and embankments be inspected by a qualified, registered professional engineer or by someone under the supervision of a qualified professional engineer. The Utah provision requires that the inspection be performed by a person qualified under the requirements of the Mine Safety and Health Administration (MSHA) found at 30 CFR 77.216–3 rather than the above standard. This substitution lessens the federal standard because MSHA at 30 CFR 77.216–3 does not require that such inspection be performed by a registered professional engineer and is therefore not acceptable.

(xiv) 30 CFR 816/817.52 prescribes requirements for conducting surface and groundwater monitoring. Utah's regulations SMC 816.52(a)(1) and UMC 817.52(a)(1) add a provision to the paragraph which allows the Division to minimize monitoring where no aquifer exists, thus creating the potential that no monitoring will be required. Utah's provisions are less stringent than the federal regulations.

(xv) SMC 816.53 and UMC 817.53 contain no equivalent to paragraph (c) of 30 CFR 816.53 and 817.53. That provision sets forth that upon an approved transfer of a well, the transferor shall be secondarily liable for the transferee's

obligations until release of the bond for the area in which the well is located. This omission makes the state provision less stringent than the federal provision, and thus cannot be accepted.

(xvi) In SMC 816.57(a) and UMC 817.57(a), the state adds the phrase "important to a downstream fishery" to its provision for the establishment of buffer zones for perennial and intermittent streams. This phrase limits the protection offered by 30 CFR 816.57(a) and 817.57(a) and is thereby inconsistent with the federal rule.

Further, in SMC 816.57(c) and UMC 817.57(c), the state restricts the determination of a biological community to an "intermittent stream," while 30 CFR 816.57(c) and 817.57(c) refer to any stream. By limiting biological community to only intermittent streams, the state has provided a standard less stringent than and inconsistent with the federal requirements.

(xvii) Sections UMC 817.65 and SMC 816.65, prescribing surface blasting requirements contain several typographical errors. Furthermore, UMC 817.65 is missing paragraphs (i) concerning maximum peak particle velocity, (j) concerning variance to maximum peak particle velocity, and (l) concerning the maximum weight of explosives to be detonated, as in 30 CFR 817.65. These omissions result in state requirements less stringent than the corresponding federal requirements.

(xviii) 30 CFR 816.68(s)(2) requires that seismographic records contain the name of the person taking the seismograph reading. The state omits this requirement from SCM 816.68, and therefore the provision is less stringent than and inconsistent with the federal provision.

(xix) 30 CFR 816.93(a) and 817.93(a) set forth design and construction criteria for dams and embankments constructed of coal processing waste or intended to impound such waste. Utah omits "or intended to impound such waste" from SMC 816.93(a) and UMC 817.93(a). This omission would allow for standards which are less stringent than and inconsistent with the federal requirements.

(xx) 30 CFR 816.71–74 and 817.71–74 prescribe procedures for the disposal of excess spoil. The Utah regulations contained several variations from these sections. Principally, the Utah regulations (1) allow the Division to determine the static safety factor on a site-by-site basis (SMC 816.71(f)/30 CFR 816.71(f); SMC 816/UMC 817.71(j)/30 CFR 816/817.71(k); SMC 816.74(b)(2)/30CFR 816.74(b)(2); UMC 817.74(b)(2)/30 CFR 817.74(b)(2)), or not to specifically require a long term static safety factor of 1.5 (SMC 816/UMC 817.72(a)(2)/30 CFR 816/817.72(a)(2)); allow the use of non-acid and non-toxic coal processing waste with excess spoil in head-of-hollow, valley and excess spoil fills (SMC 816/UMC 817.71(a)/30 CFR 816/817.72(a); SMC 816/UMC 817.72(c)/30 CFR 816/817.72(c); and SMC 816/UMC 817.73/30 CFR 816/817.73); (3) delete the requirement that no depressions or impoundments be allowed on the compacted fill (SMC 816/UMC 817.71(g)/30 CFR 816/817.71(g)); (4) require a filter system only "where necessary" and delete the specifications for constructing underdrains for valley fills (SMC 816/UMC 817.72(b)(2), (3), (4)/30 CFR 816.817.72(b)(2), (3), (4)); and (5) allow the Division to authorize lifts greater than 4 feet for valley fills and head-of-hollow fills (SMC 816/UMC 817.72(c)/30 CFR 816/817.72(c)). In addition, there were typographical errors in SMC 816/UMC 817.72(b)(1)–(3)/30 CFR 816/817.72(b)(1)–(3)). The differences make the Utah regulations inconsistent with the federal regulations because they require less environmental protection in fill construction.

(xxi) SMC 816.72 and UMC 817.72 allow "nonacid and nontoxic coal processing waste" to be used in valley fills. The definition of valley fill in 30 CFR 701.5 specifically prohibits the usage of coal processing waste from valley fills because of problems these materials cause with regard to stability. The preamble to the federal regulations, 44 FR 15204 (March 13, 1979), explains that coal processing waste cannot be used in this type fill because "* * * valley fills and head-of-hollow fills are in steeper areas where side slopes in excess of 20 degrees and average profiles in excess of 10 degrees are encountered. Fills in such steeper areas are more prone to failure, and the effects of failure more damaging." Therefore, the Utah provision is less stringent than and inconsistent with the federal requirements.

(xxii) 30 CFR 816.97(d)(10) and 816.97(d)(10) require that "where cropland is to be the alternative postmining land use on lands diverted from a fish and wildlife premining land use, and where appropriate for wildlife and crop management practices * * *" certain criteria must be met. Utah, in SMC 816.97(d)(10) and UMC 817.97(d)(10), includes provisions parallel to the corresponding federal provisions.

(xxiii) The state's regulation SMC 816.102(a)(2) allows the elimination or reduction of highwalls as determined by the Division. 30 CFR 816.102(a)(2) stipulates that in all cases highwalls must be eliminated by backfilling and grading. As noted in Finding 4(b)(i) on the "state window" proposal, this discretion in the state provision as it is presently formulated allows possible variances not allowed by the federal rules and is therefore inconsistent with the federal requirements.

(xxiv) Sections 30 CFR 816.103(a)(1) and 817.103(a)(1) require that all exposed coal seams remaining after mining and all acid-forming materials, toxic-forming materials, combustible materials or any other materials identified by the regulatory authority as exposed, used or produced during mining be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material. The court remanded this provision to also allow the treatment of such materials in *In re: Permanent Surface Mining Regulation Litigation* Civil Action No. 79–1144 (D.D.C., February 26, 1980, p. 17). Utah's regulations SMC 816.103(a)(1) and UMC 817.103(a)(1) allow the treatment or burial and compaction or other disposal designed to prevent contamination of ground or surface waters. However, Utah does not specify a minimum burial depth if not treated, and as such is less stringent than the federal provision.

(xxv) In SMC 816.104(b)(1) the state adds the alternative "or reduce as required by the Division" to the requirement of 30 CFR 816.104(b)(1), to "cover all acid-forming and toxic-forming materials". The addition of this alternative makes the Utah provision less stringent than and inconsistent with the federal requirement.

(xxvi) In SMC 816.105(b)(5), Utah has provided an alternative to the federal requirement in 30 CFR 816.105(b)(5) to "eliminate all highwalls and depressions by backfilling with spoil and suitable waste materials" by adding the words "or reduce" after the word "eliminate." As discussed earlier in Finding 4(b)(i), this alternative as implemented in the Utah regulations makes the Utah provision less stringent than and inconsistent with the 30 CFR 816.105 requirement.

(xxvii) 30 CFR 816.111(b)(1) requires achievement of a permanent vegetative cover of the same seasonal variety native to the area of disturbed land. Utah, in SMC 816.111(b)(1) conditions this requirement with the insertion of the phrase "as that which is" after "variety". Utah's provision could be interpreted to allow the use of introduced species outside the conditions established by 30 CFR 816/817.112. This would be inconsistent with the language of Section 515(b)(19) of SMCRA and Section 40–10–17(2)(s) UCA of the Utah CMRA, which require the

use of a permanent vegetative cover of the same seasonal variety native to the area except as the use of introduced species is allowed by 30 CFR 816/817.112 and Section 515(b)(19) of SMCRA.

(xxviii) 30 CFR 816.116 and 817.116 prescribe standards for revegetation success. Paragraph (b)(1) provides that ground cover and productivity of living plants on the vegetated area within the permit area shall be equal to the ground cover and productivity of living plants on the approved reference area or to standards in other technical guides approved by the Director of OSM for use in the regulatory program. The state omitted from SMC 816.116(b)(1) and UMC 817.116(b)(1) the reguirement that other technical guides for determining revegetation success be approved by the Director of OSM. The state regulation is therefore inconsistent with the comparable federal provision.

(xxix) UMC 817.124(b) does not satisfy the requirements of 30 CFR 817.124(b) for the protection of surface lands from the effects of subsidence in that the state's language allows the operator "at his option" to comply with the requirements of the section and exempts operator-owned structures from the requirement of either the restoration or purchase of damaged structures. Further, UMC 817.124(b)(3) does not require the purchase of a noncancellable premium prepaid insurance policy, as prescribed by 30 CFR 817.124, but allows a renewable policy. The state provisions are less stringent than the corresponding federal provisions because they do not afford the surface owner protection equal to that guaranteed by the federal regulations.

(xxx) UMC 817.126, concerning buffer zones, is inconsistent with 30 CFR 817.126 because in paragraphs (a) and (c) the state limits the prohibition against conducting underground operations in certain areas to those operations "which will cause subsidence." Language similar to Utah's was specifically rejected in promulgating the federal rule, 44 FR 15276 (March 13, 1979).

(xxxi) Utah, in its underground regulations, has no equivalent to 30 CFR Part 826, which establishes special permanent performance standards for operations on steep slopes. Utah stated in its July 24, 1980 program submission that this omission is part of its proposed state window for underground coal mining on steep slopes. However, the Secretary has disapproved this proposed state window in its present form (See Finding 4(b)). Accordingly, the state program is inconsistent with the federal requirements in failing to prevent the placement of spoil, waste materials, debris and abandoned equipment on the downslope on steep slopes as required by 30 CFR 126.12(a). Utah must either promulgate regulations equivalent to 30 CFR Part 826 or resubmit an acceptable state window.

(xxxii) 30 CFR 828.11(b)(3) prescribes that in situ processing activities must be planned and conducted to minimize disturbance to the prevailing hydrologic balance by avoiding annular injections between the wall of the drill hole and the casings. Utah omitted this provision from UMC/SMC 828.11(b), making its provision less stringent than the federal provision.

The Secretary has determined that while the following Utah sections are different from provisions of 30 CFR Chapter VII, they are consistent with and as stringent as those requirements.

(xxxiii) The definition in 30 CFR 701.5 of "rangeland" focuses on the nature of the natural potential plant cover. It states that except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use. Rangeland is one of several terms for describing the premining land use (30 CFR 779.22 and 783.22) and post mining land use (30 CFR 780.23 and 784.15), which must be approved as part of the permit application in meeting the requirement to return the land after mining to an equal or better land use. The Utah definition in UMC/SMC 700.5 differs from the focus on plant type in that it sets forth physical limitations such as low and erratic precipitation, rough topography, poor drainage or extreme temperatures that would make the land "generally unsuited for cultivation."

In the May 21, 1980 Region V Director's letter to the state, it was requested that the use of the phrase "generally unsuited for cultivation" be clarified. As explained by Utah in clarifying information submitted to OSM on July 24, 1980, historically, certain areas of Utah were settled under the direction of the Mormon Church leaders. In all areas that were settled, they directed that the settlements be self-sufficient. This involved the development of cultivated lands in areas generally unsuited for agriculture. With the passage of time some of these cultivated lands were abandoned and returned to their natural conditions. In most cases the natural use for this land was range.

OSM's concern was that lands with a pre-mining land use such as agriculture might be designated as rangeland after mining given the term "generally unsuited for cultivation". It is the Secretary's understanding that the state is attempting to clarify that at some time, due to unique social and environmental conditions, an area might have been cultivated but that the area will be classified as rangeland on the basis of the traditional and highest and best use of the land. Based on Utah's presentation, the state definition of rangeland is determined to be consistent with that of 30 CFR 701.5.

(xxxiv) 30 CFR 817.111 sets forth the requirements for revegetating surface areas disturbed by underground mining operations. This section requires that revegetation must achieve "a permanent vegetative cover of the same seasonal variety native to the area of disturbed land." 30 CFR 817.111 implements the requirement of Section 516(b)(6) of SMCRA that a "diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area" be established on all lands affected by underground mining. This provision differs from the requirements of Section 515(b)(19), which requires the use of native vegetation of the same seasonal variety when revegetating areas affected by surface operations. The federal preamble, 44 FR 15271–2 (March 13, 1979), indicates that the appropriate changes were made to § 817.111 to reflect the fact that Section 515(b)(19) differs from 516(b)(6) in not requiring native vegetation of the same seasonal variety. Apparently that correction was inadvertently not made to the permanent federal program regulations, as the requirement of § 816.111(b)(1) is identical to § 816.111(b)(1) in requiring native vegetation of the same seasonal variety native to the area. Utah regulations reflect the intent of the federal preamble. Thus, SMC 816.111(b)(1) is identical to § 816.111(b)(1) while UMC 817.111(b)(1) correctly differs from § 817.111(b)(1) by reflecting the language of Section 516(b)(6) of SMCRA.

(xxxv) 30 CFR 816.97(d)(2) requires operators to fence roadways where specified by the regulatory authority to guide locally important wildlife to roadway underpasses. The state provisions SMC 816.97(d)(2) and UMC 817.97(d)(2) were consistent with this provision. This federal section was amended on June 5, 1980 (45 FR 37818) to include overpasses. Utah will be given an opportunity to revise its regulation to make it consistent with the June 5, 1980 revision of the federal regulations.

(xxxvi) "Aquifer" as defined in 30 CFR 701.5, means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities

for a specific use. Utah's use of the term "quantity and quality" under UMC/SMC 700.5 results in a more restrictive definition of aquifer than the federal term "quantities," since under the Federal definition, a subterranean body of water would be deemed an aquifer if the water could be treated to be of sufficient quality for a "specific use" while the Utah definition would only consider it an aquifer if the water was naturally of the appropriate quality. The Secretary believes that the Utah definition would not provide protection of water resources in coal mining areas consistent with that provided by the federal rules, since permit information would not have to be submitted nor operating measures taken, such as monitoring, to protect all aquifers to the extent required under 30 CFR 779.15(a) and 816.52(a). The state regulation is therefore inconsistent with the federal rule.

(d) The Secretary finds that the Division of Oil, Gas and Mining partially has the authority under Utah laws and regulations and the Utah program partially includes provisions to implement, administer and enforce a permit system. Deficiencies in the state program submission are discussed in the following findings.

(i) SMC 779.19(a) omits the requirement of 30 CFR 779.19(a) that the permit application vegetation map include plant communities within any proposed reference area. This omission allows for variances in the permit application not allowed by the federal rule and is thus less stringent than and inconsistent with the federal requirement.

(ii) 30 CFR 784.20(b) requires a detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value or reasonable foreseeable use of the surface. Paragraph (b)(3)(v) identifies monitoring as one of the measures that may be used. The preamble to the federal rule, 44 FR 15076 (March 3, 1979) reveals that this provision is intended to "allow for the adaptation of monitoring requirements to each individual mining situation * * *." Thus, states must retain discretion to impose monitoring on a site-by-site basis, although they need not impose it as a requirement on every operation. UMC/SMC 784.20(b)(3)(v) limit such monitoring to "only * * * those areas that may be affected by subsidence if it occurred." The state's added condition is inconsistent with the federal provision because if monitoring is conducted only in areas that may be affected, there would be no baseline for comparison to establish if subsidence was occurring and the extent of its effect.

(iii) 30 CFR 785.19(c)(1) requires that the applicant either affirmatively demonstrate, based on available data, the presence of an alluvial valley floor or submit to the regulatory authority results of a field investigation of the proposed mine plan area and adjacent area. The state, in UMC/SMC 786.19(c)(1), requires that the application establish the "lack" of presence of an alluvial valley floor based on available data. The state provision is inconsistent with the federal requirement because under the federal rule where there is inadequate data to show the presence of an alluvial valley floor, the operator must seek further data.

(iv) 30 CFR 785.19(c) sets forth procedures for the determination of whether an alluvial valley floor exists in the proposed mine area or adjacent area. 30 CFR 785.19(d) and the State's analogue, UMC/SMC 785.19(d), set forth the application content requirements for operations affecting designated alluvial valley floors. 30 CFR 785.19(e) and the State's analogue, UMC/SMC 785.19(e), prescribe conditions that must be deomonstrated by the applicant prior to conducing operations on lands west of the one hundredth median.

Utah has added a provision, UMC/SMC 785.19(c)(3), to the requirements of 30 CFR 785.19(c). In its added provision the State waives the provisions of UMC/SMC 785.19 (d) and (e) where the Division determines that the proposed surface operation will not adversely affect the alluvial valley floor. Sections UMC/SMC 785.19(c)(3) are inconsistent with 30 CFR 785.19(c), which provides no such waiver, because the protection of alluvial valley floors is less than that provided by the federal regulation.

(v) 30 CFR 786.19(h) requires proof that, in addition to applicable state permit fees, all reclamation fees required by subchapter R of 30 CFR Chapter VII (Abandoned Mine Lands) have been paid before a permit can be issued. Utah omits this requirement in Section UMC/SMC 786.19(h), thereby potentially allowing a permit to be issued before all requirements are met. This omission makes the state regulation inconsistent with and less stringent than the federal requirement.

(vi) 30 CFR 788.12(a)(1) specifies that each regulatory authority shall provide parameters in the regulatory program to determine what changes shall constitute significant departures from the method of mining and reclamation operations approved under the original permit. Those actions defined as significant departures will require permit revisions. Utah specifies in UMC/SMC 788.12(a)(1) three specific parameters and a general provision (iv) which would allow the Division to decide, on a site-by-site basis, what would be reasonable. The state should indicate if the increase in the size of the area disturbed referenced in (a)(1)(i) includes surface and subsurface disturbances for underground mining. Further, the state needs to define what actions would be considered "reasonable" and the criteria that would be used in making that decision in order to insure consistency with the federal rules.

(vii) Sections UMC/SMC 788.18(b)(2) are inconsistent with the federal regulations in that they do not prescribe, as required by 30 CFR 788.12(b)(2), the time in which written comments may be submitted on requests for a permit transfer, assignment or sale of permit right.

30 CFR 780.31 and 784.17 require that for any historic place that may be adversely affected by the proposed mining operation, each reclamation plan must describe measures to be used to minimize or prevent impacts to these areas and to obtain the necessary approval as required by 30 CFR 761.12(f). Only places listed on the National Register of Historic Places are protected under 30 CFR 761.12(f). In SMC 780.31 and UMC 784.17, Utah protects historic places designated as historic under federal, state or local law, thus protecting state or locally listed sites which would not be protected under the federal provisions. Utah's provisions are more stringent than and thus consistent with the federal provisions.

(viii) Section UMC 785.18 of the Utah underground regulations does not contain the provisions of 30 CFR 785.18, "Variances for delay in contemporaneous reclamation requirements in combined surface and underground mining operations." In the Regional Director's letter to the state, May 21, 1980, Utah was asked to clarify this omission. Utah explained in its June 16, 1980 program resubmission that it has a regulation for surface coal mining and a separate regulation for underground coal mining. The surface regulations contain a section, (SMC 785.18) which is identical to federal regulation 30 CFR 785.18. Since a combined surface and underground mining operation must comply with Chapter I (Underground) and Chapter II (Surface) of Utah's regulations, the requirements of 30 CFR 785.18 were only incorporated in the surface regulation. Based on this explanation, the Secretary

finds that the Utah regulations satisfy the requirements of the federal program.

(ix) Section 510(b)(6) of SMCRA and 30 CFR 788.15(b) provide that where the private mineral estate has been severed from the private surface estate, the permit applicant must submit either the written consent of the surface owner or a conveyance expressly granting or reserving the right to use such methods; or where the conveyance does not have express language, the relative legal rights of the parties must be determined in accordance with state law. UCA 40-10-11(f) differs from the federal provisions in that these requirements are triggered only when the *state* mineral estate has been severed from the private surface estate.

On July 24, 1980, Utah submitted an Attorney General's opinion dated July 23, 1980 which explains on pages 1 and 2 that Utah rejected Section 510(b)(6) of SMCRA because of the "traditional dominance of the mineral estate over the surface estate with respect to private property" and the state's reluctance to interfere with this relationship, which is traditionally handled by private agreement.

The Attorney General argues that there is well established law on construing documents splitting up the surface and mineral estates to determine whether the mineral owner has the right to use surface mining methods. She also points out that UCA 40-10-29 protects water rights of surface owners and argues that this statutory protection, along with the common law of private property relations, suffices to protect surface owners as much as they would be protected under SMCRA.

The Secretary does not believe that section 510(b)(6) of SMCRA is intended to alter property rights. It is a procedural requirement designed to ensure that a permit applicant demonstrates to the regulatory authority that he or she will be mining in accordance with those property rights as they have been settled between the parties or under state law. Utah's provision is inconsistent with the federal provision because it fails to require such a demonstration.

(e) The Utah statute under Sections 40-10-8 UCA and 40-10-17 UCA and Utah regulations under UMC/SMC 776 and UMC/SMC 815 provide the Utah Division of Oil, Gas and Mining with the authority to regulate coal exploration consistent with Sections 512 and 515 of SMCRA and 30 CFR 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR 776 and 815.

(f) The Utah CMRA, Section 40-10-5 UCA, and the Utah regulations, UMC/SMC Part 707, provide for an exemption for coal extraction incidental to government financed construction consistent with Section 528 of SMCRA and 30 CFR Part 707.

(g) The Division of Oil, Gas and Mining partially has the authority under the Utah CMRA 40-10-19 UCA and UMC/SMC 840 of the Utah regulations to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal lands within Utah consistent with Section 517 of SMCRA and 30 CFR 840.

(i) In UMC 842.12(c), Utah provides citizen right of entry to surface operations of underground coal mining activities. 30 CFR 842.12(c) grants the right following a citizen's complaint to enter to, upon and through the coal exploration or surface coal mining and reclamation operation upon which the complaint was made. 30 CFR 700.5 defines "surface coal mining operations" to mean the activities conducted on the surface of lands in conjunction with a surface coal mine or the surface operations and surface impacts incident to an underground mine. Therefore, the Secretary finds Utah's use of the term "surface operations of an underground coal mining activity" in its underground mining regulation, UMC 842.12(c), to be consistent with the right of entry granted by 30 CFR 842.12(c). 30 CFR 842.12(c) does not grant a right to go underground.

(ii) Section 40-10-22(e) UCA requires that each notice of violation and cessation order "shall be signed by the Director," a requirement which could be read to impede or preclude the field issuance of such notices and orders. The regulations implementing § 40-10-22 UCA, however, require that each notice of violation be signed by "the Director, Division, or their authorized representative" (UMC 843.12(b)), and each cessation order by "the Director, or the authorized representative who issues it" (UMC 843.11(c)).

The immediate field issuance of notices of violation and cessation orders is an indispensable element in any State's program (44 FR 15295, March 13, 1979), and, as a consequence, the Secretary would be unable to approve a program that did not include this critical provision. The apparent difference between Section 40-10-22(e) UCA and the corresponding regulations makes it unclear whether the Utah program does or does not provide for mandatory field enforcement.

However, the Secretary finds that the July 23, 1980, legal opinion of the Utah Attorney General clarifies this issue. The legal opinion states:

> Pursuant to § 40-10-22, UCA, and implementing regulations at UMC and SMC Parts 840, 842, and 843, the Division has the authority to issue *immediate* cessation orders and notices of violation *on-site*, during the process of an inspection. (Page 4) (Emphasis added)

The Secretary understands this to mean that the Utah program provides for mandatory field enforcement, and that Utah inspectors have and use at all times the authority to issue notices of violation and cessation orders on-site during the course of, or as a result of, an inspection. The Secretary further understands this opinion to mean that no signature other than that of an authorized representative of the Division is or will be required to validate any notice of violation or cessation order issued in the field. The Secretary emphasizes that his approval of this portion of the Utah program is based on these understandings.

(h) The Secretary finds that the Utah Division of Oil, Gas and Mining partially has the authority under Utah laws and the Utah program includes provisions to implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with Subchapter J of 30 CFR Chapter VII. The performance bond and liability insurance provisions of Sections 507(f), 509, 510, and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J are incorporated in Sections 40-10-10-(6), 40-10-15, 40-10-16 of the Utah CMRA and in Parts 800-808 of the Utah regulations. Deficiencies pertinent to this finding are discussed below.

(i) The Utah regulations, UMC/SMC 800.5, have omitted the definition of "current assets" contained in 30 CFR 800.5.

(ii) 30 CFR 805.13(b) requires that "the period of [bonding] liability shall begin again whenever augmented seeding, fertilizing, irrigation, or other work is required or conducted on the site prior to bond release." The state in UMC/SMC 805.13(b) provides that when seeding, fertilizing, or irrigation work is conducted for the purpose of "general enhancement" on a revegetation plot, such work will not cause the liability period to begin anew. The state provision creates a lesser standard than that prescribed by the federal rule and is therefore unacceptable.

(iii) Portions of the following federal bonding regulations were proposed for amendment on January 24, 1980 (45 FR 6028-6042): 30 CFR 800.5, 800.11(b)(1), 800.13, Part 801, 805.13, 805.14, 806.11, 806.12, 806.13, 806.14, 806.17, 807.12, 808.11, 808.12, and 808.13(a). Final federal regulations on these bonding sections were published on August 6, 1980 (45 FR 62306-52324). Because of the

public comment received by the Secretary during the promulgation process, many changes were made to the proposed rules. Utah will have an opportunity pursuant to 30 CFR 732.17 to amend its rules to meet the requirements of the new federal rules.

The Secretary is taking the position that the Utah program's bonding provisions may be approved if they are consistent with the federal rules as they existed when the Utah program was submitted on March 3, 1980, or with the rules as amended August 6, 1980. The Secretary's finding is provided concerning Utah's provision that appears to be based on the January 24, 1980 proposed regulations.

Utah's accumulating fund bond as defined in UMC/SMC 800.5 and referenced in UMC/SMC 806.11 is deficient because it does not include the provisions 30 CFR 806.13 and .17 as amended in 45 FR 52321 (August 6, 1980), that ensure that sufficient funds are available at any point in time to complete reclamation if the operator defaults.

If Utah resubmits its program with bonding provisions which are inconsistent with the federal rules as promulgated on March 13, 1979, but which are consistent with the August 6, 1980 amendments, its rules can still be approved. At the time of the final Secretarial decision on the Utah program, the state will be advised of any further changes that may be required and will be allowed sufficient time to accomplish the changes.

(iv) 30 CFR 806.12(e) (2), (5) and (6) require the establishment of a maximum single obligation for a company beyond which a surety is restrained from bonding. A state is given the option by the federal regulations of using the criteria set forth in 30 CFR Part 806 or those established by state law.

30 CFR 806.12(a) requires that in the indemnity agreement, the amount of the surety bond shall be confessed to judgment upon forfeiture if this procedure is authorized by state law. Utah refers, in UMC/SMC 806.12(g) to the state law, but apparently none exists. The state should incorporate the requirement of the analogous federal provisions for these sections in order for the state's regulations to be consistent with the federal regulations.

(v) The Utah regulations in UMC/SMC 807.11(h) are inconsistent with the federal statute and regulations because they do not provide that an objector has the right to request the bond release hearing to be held in the town or city nearest the permit area or the state capital, at his or her option. Such a right is provided by Section 519(f) of SMCRA and 30 CFR 807.11(h). The Utah statute, Section 40-10-16(6)(b) UCA, is silent on where the bond release hearing may be held.

(i) The Division of Oil, Gas and Mining partially has the authority under Sections 40-10-20 and 40-10-21 of the Utah CMRA and the Utah program includes provisions for civil and criminal sanctions for violations of Utah law, regulations, conditions of permits and exploration approvals, including civil and criminal penalties in accordance with Section 518 of SMCRA. Specific issues in this area are discussed below.

(i) Utah, in UMC/SMC 845.20, requires that an interest rate of 6% be incurred on the funds held in escrow pending judicial review of an assessed penalty. The federal provisions, Section 518(c) and 30 CFR 845.20(c), prescribe an interest rate of 6% on the prevailing Department of Treasury rate, whichever is greater. The Secretary finds that it is highly unlikely that the Department of Treasury rate will be less than 6% in the near future. Thus, Utah's provision is consistent with the federal provision under the "same or similar" standard.

(ii) Utah regulations UMC/SMC 85.19 do not include a process for requesting that the Board review the proposed penalty in a formal hearing, as required by 30 CFR 845.19. This omission lessens the requirements for review and is therefore inconsistent with the federal requirements.

(iii) There is no constraint on the length of time that will be taken in the process of administrative adjudication of proposed civil penalties under 40-10-20 of UCA and regulation Part 845. Although an operator seeking a hearing must make his request within 30 days of receiving the proposed amendment, there is no limit on the time by which the Board must decide and issue the assessment, and the item in which a hearing must be held. It is important to both operators and the public that the adjudication process not be unreasonably delayed. Under the OSM assessment conference procedure (30 CFR 845.18) no more than 150 days will normally elapse between the initial proposal of a penalty and the conclusion of this first level of administrative review. At that time an operator wishing further review must request a formal adjudicatory hearing and place the full amount of the proposed penalty in escrow. The escrow provision is required by Section 518(c) of SMCRA.

Utah has chosen to omit an assessment conference procedure in favor of a formal administrative hearing as its first step in review of a proposed assessment. Because this hearing is sequentially similar to the OSM assessment conference, the Secretary agrees that the escrow requirement can be deferred to the second level of review as it is under OSM procedure. In Utah the second level of review is judicial review. The problem is that under its present program provisions the second level of review may be unreasonably delayed.

Accordingly, Utah's program is disapproved to the extent that it fails to require a reasonable limit on the amount of time by which the Board must decide and issue the assessment, and the time in which a hearing must be held.

(j) The Utah Division of Oil, Gas and Mining has the authority under Utah laws and the Utah program contains provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA, 30 USC 1271, and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements, as described in the following findings. The enforcement authorities in Section 521 of SMCRA and the applicable provisions of 30 CFR Chapter VII, Subchapter L are contained in 40-10-22 UCA of the Utah CMRA and in Sections UMC/SMC 840, 843 and 845 of the Utah regulations.

Section 516(c) of SMCRA requires that underground coal mining under urbanized areas, cities, towns and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams be suspended if it is found that there is imminent danger to inhabitants of the urbanized areas, cities, towns and communities. Utah requires, in U.C.A. § 40-10-18(3), that only if "after proper notice and hearing" there is a finding of imminent danger will the Board suspend such mining.

In the Regional Director's letter to the State, May 21, 1980, Utah was asked to clarify this provision. The Utah Attorney General explained in a July 24, 1980 opinion that under Utah's law the Division has the authority to order immediate suspension of mining. The Board, however, may only suspend such mining after notice and hearing. The Division of Oil, Gas & Mining has the authority under Section 40-10-22-(1)(b) of the Utah CMRA to issue a cessation order when it determines that any condition, practice or violation of the permit exists that creates an imminent danger to the health or safety of the public. That order remains in effect until the Division determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Division in

accordance with 40-10-22-(1)(e) of the Utah CMRA. That section also requires that a conference be held before the Division within 30 days of the order. Section 40-10-20 UCA of the Utah CMRA set forth the procedures to be followed for such a conference. These provisions require at least a five day notice of the hearing. After the hearing, the Board would make a determination as to whether the mining operation should be indefinitely suspended (i.e., permanently enjoined). The Board's permanent suspension (i.e., permanent injunction) constitutes a more stringent enforcement than the issuance of a cessation order by the Division which constitutes a temporary restraining order. The Secretary finds that Utah's provision for suspending underground mining is at least as stringent as the federal provision. Such procedures are consistent with SMCRA.

(k) the Utah Division of Oil, Gas and Mining partially has the authority under Sections 760, 761, 762 and 764 of the Utah regulations and the Utah program contains provisions to designate areas as unsuitable for surface coal mining consistent with CFR Chapter VII, Chapter F. Deficiencies in this area are discussed in the following findings.

(i) 30 CFR 761.11(c) prohibits or limits surface coal mining operations on any lands where such mining will "adversely affect" any publicly owned park or any places included on the National Register of Historic Places. The Utah regulations, UMC 761.11(a)(3) and SMC 761.11(c), restrict that provision to lands "contained in" the noted parks and places. The state's promulgated regulations are not consistent with the protection of public parks and places provided in 30 CFR 761.11(c) because mining outside the boundaries of these places could affect them but would not be covered by the state's rules.

(ii) 30 CFR 761.11(e) requires, subject to certain exceptions and waivers, that no "surface coal mining operations" may be conducted within 300 feet measured horizonally from any occupied dwelling. "Surface coal mining operations" includes surface mining and the surface effects of underground mining. 30 CFR 700.5 implements the mandate of Section 522(e)(5) of SMCRA. The Utah statute, Section 40-10-24(4)(d) UCA, mirrors the mandate of SMCRA. However, Utah's underground regulation, UMC 761.11(b)(1), applies the restriction only to "surface operations" closer than 300 feet. Utah does not include underground mining activities in its definition in UMC/SMC 700.5 of "surface operations." The Utah regulation, UMC 761.11(b), is inconsistent with the federal requirements because it does not apply the restriction to the surface effects of underground coal mining activities.

(iii) Utah has added a definition for the term "area" in UMC/SMC 762.5. This term is not defined in the Federal regulations. Utah defines "areas" as "a geographic unit defined by a legal subdivision in which the criteria alleged in the petition pursuant to SMC 762.11, 762.12, 764.13 (b) and (c) and 764.19 occur throughout and form a significant or substantial feature." As used in the 30 CFR Part 762, "area" refers to any parcel of land which the petitioners request be designated as unsuitable. The Utah definition places a limitation on the usage of the term not intended by the federal regulations. Further, the state's definition would impose a burden on the petitioner to supply a legal description of the area and would inhibit the petition process by requiring that such a strictly defined area contain the features of the restriction throughout. As such, the use of this definition by Utah is inconsistent with the federal requirements by creating more stringent criteria for designation of unsuitability than those in the federal regulations.

The Secretary notes that in UMC 762.5 Utah has omitted the term "form" from the definition of "area".

(iv) In UMC/SMC 764.13, Utah requires that a petition to designate lands unsuitable contain the following items, which are not required under 30 CFR 764.13:

(1) UMC/SMC 764.13(b)(2), UMC/SMC 764.13(c)(2)—a legal description of the area.

(2) UMC/SMC 764.13(b)(4), UMC/SMC 764.13(c)(4)—a U.S. Geological Survey 7½ or 15 minute topographic map.

(3) UMC/SMC 764.13(b)(5), UMC/SMC 764.13(c)(5)—information regarding legal owners of record of the property (surface and mineral) concerned; holders of record of any leasedhold interest in the property and purchasers or record of the property under a real estate contract.

(4) UMC/SMC 764.13(b)(6)-information that would tend to establish that an area is unsuitable for all or certain types of coal mining operations which address the points that must be considered under § 762.11 "criteria for designating lands as unsuitable."

(5) UMC/SMC 764.13(b)-information which would address the information needed for the detailed statement that must be prepared by the Division in accordance with § 764.17(e).

Utah places a burden on the petitioner which is not permitted by 30 CFR 764.13(b) and (c). These federal regulations state that the information required under the federal rules is the only information petitioners can be required to submit.

(v) Sections UMC/SMC 764.13(b) do not contain the provision in 30 CFR 764.13(b)(3) that requires, in the designation petition, a description of how mining of the area has affected or may adversely affect people, land, air, water, or other resources. Because this decreases the burden on petitioners, it is more conducive to public participation and thus consistent with the federal regulation.

(vi) 30 CFR 764.15(b)(2) requires that notice that a petition is complete be published in a State register when one exists. SMC/UMC 764.15(b)(2) contains the requirement that this information be published in the State Register, when in fact, no such document exists. This reference should be deleted from the regulation.

(vii) The state regulations, UMC/SMC 764.17(a), do not provide for the petition hearing to be in the locality of the petition area or that the hearing be legislative in nature, without the cross examination of witnesses as prescribed in 30 CFR 764.17(a). Rather, Utah requires that the hearing be in Salt Lake City and that it be adjudicatory in nature and allows the cross examination of witnesses. This provision is inconsistent with the federal rules.

(viii) Section 522(d) of SMCRA, 30 CFR 764.17(e) and 30 CFR 764.19(a)(3) require that before the regulatory authority designates an area unsuitable for mining, it must prepare and consider a detailed statement on the coal resources of the area, the demand, for coal, and the impact of designation on the environment, the economy and the supply of coal. Utah has an equivalent provision, § 40-10-24(3) UCA. The Utah CMRA, § 40-10-24(1)(c) UCA, also requires that the criteria for discresionary designations listed in § 40-10-24(1)(c)(i-iv) (SMCRA 522(a)(3)(A-D)) be balance against the economic impact of the designation in a cost-benefit analysis.

As explained in the Attorney General's opinion of July 23, 1980, submitted July 24, 1980, pp. 3-4, this provisions is intended to be consistent with the requirement in SMCRA and in 40-10-24(c) UCA for a statement on the economic impact of the designation. The cost-benefit analysis is to be part of the required statement. The Secretary agrees that the federal provisions require consideration of economic as well as the environmental factors. In light of the Attorney General's opinion as well as the Secretary's reading of the Utah statute, the Secretary does not

believe that Utah's cost-benefit provision is intended to change the criteria the regulatory authority must consider or to limit its discretion in any way not envisioned by the federal rules and thus approves Utah's provision on this basis.

(ix) Section 522(e) of SMCRA and 30 CFR 761.11 and 761.5 prohibits mining in certain areas, with an exception for those surface coal mining operations which existed on the date of enactment, and 30 CFR 761.11 prohibit mining in certain areas with an exception for those operations which existed on August 3, 1977. Federal regulation 30 CFR 761.5 defines "surface coal mining operations which exist on the date of enactment" as all such operations which were being conducted on August 3, 1977. Utah statute Section 40–10–24(4) UCA and regulation UMC/SMC 761.11 have similar provisions, except that the statutory date on which such operations must have existed is the date of enactment of the Utah law, March 20, 1979. The Utah regulations, UMC/SMC 761.5, refer to August 3, 1977.

Surface coal mining operations could lawfully exist on March 20, 1979 in the designated areas only if they had also existed prior to August 3, 1977; otherwise, the federal law under Section 522(e) would have forbidden them. Since the federal law has prohibited mining in the specified areas since August 3, 1977, Utah would have been unable to issue a permit or to allow mining to be conducted, because to do so would have been inconsistent with federal law. Thus, any mine which would qualify for Utah's exception would also qualify for the federal exception.

The Secretary has determined that it is not necessary that the August 3, 1977 date be reflected in the Utah statute. The state program provisions are consistent with the federal provisions for defining surface coal mining operations which exist on the date of enactment of SMCRA.

(x) Section 522(e) of SMCRA prohibits, subject to valid existing rights, mining in certain areas. Federal regulations 20 CFR 761.5 defines valid existing rights. One of the requirements is that the operator had all necessary permits by August 3, 1977. Utah statute Section 40–10–24(d) USC and regulation UMC/SMC 761.5 have similar provisions, except that the statutory date for establishment of rights is March 20, 1979, the date of enanctment of the Utah law.

In *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (D.D.C. Feb. 26, 1980, p. 20), the court held that a good faith effort to obtain all permits meets the "all permits" requirement. Because of this, some people who may have in good faith applied for but not received permits in the period between August 3, 1977 and March 20, 1079 might qulify for valid existing rights under the state provision would not qualify under the federal provision. For this reason, Utah's valid existing rights provisions is less stringent than the federal provisions unless Utah demonstrates that there are in fact no operations in Utah which qualify under the state provision and would not qualify under the federal provisions.

(xi) Section 522(a)(6) of SMCRA states that the requirements of that section for determining the unsuitability of lands for surface coal mining will not apply to lands on which the operations were conducted on August 3, 1977, or under a permit issued pursuant to SMCRA or where substantial legal and financial commitments in the operations were in existence prior to January 4, 1977.

Utah has similar statutory provisions except that Section 40–10–24(1)(e) UCAS refers to operations conducted on March 20, 1979 and to commitments made prior to March 15, 1978. These dates render Utah's provisions less stringent than the federal provisions. Under the federal provision, all lands on which mining is taking place on March 3, 1977 are exempt from designation. For operations which had substantial legal and financial commitments before January 4, 1977, under Section 510(b)(4) processing of a permit application cannot be halted by a petition to designated the area involved. The state provisions do not provide equivalent protection.

Utah regulations UMC/SMC 7615. and 762.5 are identical to the federal provisions. However, in vies of the fact that these regulations appear to directly contradict Utah's statute, they are not sufficient to render Utah's program consistent with the federal program.

Surface coal mining operations could exist on March 20, 1979 in such areas only if they had also existed prior to August 3, 1977; otherwise, the Section 522(a)(6) of SMCRA would have forbidden them, Since the federal law has prohibited mining in specified areas since August 3, 1977, Utah would have been unable to issue a permit or allow mining to be conducted because to do so would have been inconsistent with SMCRA. Thus, any mine which would qualify for Utah's exception would also qualify for the federal exemption.

Further, 30 CFR 761.5 defines "surface coal mining operations which exist on the enactment" as all operations which existed on August 3, 1977. 30 CFR 762.5 defines "substantial legal and financial commitments in a surface coal mining operation" as significant investments that have been made on capital intensive activities.

(1) The Utah Division of Oil, Gas and Mining partially has the authority under the Utah Rules of Practice and Procedure, Utah laws and regulations and the Utah program partially contains provisions for public participation in the development and revision of Utah regulations. Utah also partially has the authority to provide for public participation in the permitting process and in the enforcement of its laws and regulations.

(i) 30 CFR 771.21(b)(1) requires that the regulatory authority establish a time frame for submission of a complete permit application that allows sufficient time for the Division and the public to review the application. By establishing a lead time, the regulatory authority allows the permittee and the public to be aware of the time that might elapse between submission of a complete application and its approval. Utah does not set forth this time frame in SMC/UMC 771.21(b)(1) and is therefore inconsistent with the federal requirements.

(ii) 30 CFR 786.14 prescribes procedures for requesting and conducting informal conferences on proposed permit applications. Subsection (b)(4) specifically provides that the conference is not to be formal. UMC/SMC 786.14 omit the word "informal" in the majority of their references to such conferences. These omissions make the Utah provisions inconsistent with the federal requirements in Section 513(b) of SMCRA, which explicitly requires the conference to be informal.

(iii) 30 CFR 700.14(b) prescribes that records or documents in the possession of OSM may be requested under 43 CFR Part 2, which implements the Freedom of Information Act and the Privacy Act. Utah refers to these federal statutes in its regulations. As these provisions are not a part of the Utah program submission, the Secretary assumes that Utah intended to refer to its own statutory requirements on program policies. However, the state may elect to follow federal requirements for disclosure of documents, if it so desires.

(iv) With respect to public participation during the course of the development of the Utah program, representatives of the industry, public interest groups, and the general public had a number of opportunities to become involved. The Division of Oil, Gas and Mining prepared, printed and distributed proposed coal mining regulations for the state's permanent program and Notice of the Board's

hearings on the proposed regulations was published in all available newspapers in the state. Hearings were held on these proposed regulations on June 26–27, 1979, July 26 and 27, 1979, and August 23, 1979. Subsequent to these hearings, the Division redrafted the proposed regulations such that one set of regulations were developed for underground coal mining and one set of regulations were developed for surface coal mining. Hearings on these regulations were conducted on January 9–10, 1980, January 24, 1980, and February 14, 1980. The regulations were subsequently adopted by the Board on February 14, 1980.

(v) Section UMC/SMC 700.12, Utah's analogues to 30 CFR 700.12, allow an "interested" person the right to petition for rulemaking pursuant to Section 63–46–8 UCA. The federal regulation permits petitioning by "any person." The Utah provision appears to set a more restrictive standard for petitioning for a rule change. The Secretary is unable to determine if the Utah provision is consistent with the federal provision on the basis of the information in the administrative record and therefore must disapprove UMC/SMC 700.12. The state may either present information which demonstrates that standing under the state provisions is as broad as under the federal provision or make an appropriate rule change.

(m) The Division of Oil, Gas and Mining partially has the authority under Utah laws and the Utah program partially includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Utah Division of Oil, Gas and Mining consistent with 30 CFR Part 705.

(i) 30 CFR 705.6(b) provides that any employee who fails to file a financial interest statement is in violation of Section 517(g) of SMCRA and is subject to removal. Utah's provision UMC/SMC 705.6(b), refers to 30 CFR 705 rather than the applicable state statutory provision.

(ii) Sections UMC/SMC 705.21 are inconsistent with 30 CFR 705.21 because they omit the provisions of 30 CFR 705.21(a) and (b), which prescribe procedures for employees and the Division Director's appeals during the review of conflict of interest charges.

(ii) Sections UMC/SMC 705.21 are inconsistent with 30 CFR 705.21 because they omit the provisions of 30 CFR 705.21(a) and (b), which prescribe procedures for employees and the Division Director's appeals during the review of conflict of interest charges.

(n) The Division of Oil, Gas and Mining has the authority under Utah regulations to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. 30 CFR 732.15 (b)(12) does not require a state to implement regulations governing certification and training of persons engaged in blasting until six months after federal regulations for these provisions have been promulgated. The federal regulations have not been promulgated at this time.

(o) The Utah Division of Oil, Gas and Mining partially has the authority under Utah Laws and the Utah program contains provisions in Section UMC/SMC 795 of the Utah regulations to provide small operator assistance. Discussions of specific findings are listed below.

(i) The Utah statute Section 40–10–10(3) UCA and regulations UMC/SMC 795.3 contain a provision that limits the Small Operators Assistance program only to the amount federally funded. Such a limitation is inconsistent with Section 705(c) of SMCRA and 30 CFR 795.3.

(ii) 30 CFR 795.5 defines "probable hydrologic consequences" as the projected result of proposed surface coal mining and reclamation operations. SMC/UMC 795.5 deletes "reclamation" from the definition and further limits the effects from mining to only "surface effects of underground mining activities." These omissions allow State standards less stringent than the Federal requirements and are therefore unacceptable.

(iii) In UMC/SMC 795.14(f)(2), the Utah regulations do not provide for OSM right of entry to inspect lands to be mined or adjacent lands which may be affected to collect environmental data or to install necessary monitoring instruments on such lands. This is a requirement of 30 CFR 795.14(f)(2), and therefore this omission makes the Utah regulations inconsistent with the Federal requirements.

(p) The Utah Division of Oil, Gas and Mining does not have the authority to provide protection of its employees in accordance with the protection afforded Federal employees under Section 704 of SMCRA. The Utah CMRA and the Utah regulations do not contain provisions for such protection.

(q) Utah partially has the authority under its law, Section 40–10–22 UCA, regulations, UMC/SMC 840, 842, 843, and 845, the Utah program and the Oil, Gas and Mining Board's Rules of Procedure, for administrative and judicial review of State program actions in accordance with Section 525 of SMCRA and 30 CFR Chapter VII, Subchapter L except as noted below:

(i) Utah does not have rules for discovery, intervention and the award of attorney fees that are consistent with the requirements of 43 CFR Part 4, which is incorporated as a State program requirement by 30 CFR 840.15.

(ii) Utah has no equivalent to the provision of 30 CFR 845.20(a), which prescribes that if the person issued the proposed penalty fails to request a hearing, the proposed penalty is due and payable, thereby making the Utah provision inconsistent with and less stringent than the Federal requirement.

(iii) 30 CFR 843.13(a)(1) requires that upon a determination by the Director that a pattern of violations exists, he will issue a show cause order. Section 40–10–22(1)(d) UCA prescribes that upon a determination by the Division that a pattern of violations exists, the Division will request the Board to issue a show cause order. The Utah regulations UMC/SMC 843.13(a)(1) prescribe that upon the Division's recommendation, the Board shall issue a show cause order. The State's provisions are consistent with the Federal requirements because they assure that an order is issued when a determination has been made that a pattern of violations exists or has existed.

(iv) The Federal regulations at 30 CFR 700.13(b) require that notice of intent to sue be sent to the Secretary, Director and State regulatory authority prior to the time the suit is commenced. UMC 700.13(b) is inconsistent with the Federal regulation because it limits complaints on "surface coal mining operations" to complaints on the "surface effects of underground coal mining." The State provision must encompass complaints on "underground coal mining and reclamation activities."

(v) 30 CFR 840.15 requires each State program to provide for public participation in enforcement of the State program consistent with 30 CFR Parts 842, 843, and 845 and 43 CFR Part 4. UMC/SMC 840.15 is inconsistent with the Federal requirements in that it references the Federal provision rather than the applicable State provisions. This must be corrected for the State rule to be valid and workable.

(iv) Sections UMC/SMC 843.13 are inconsistent with 30 CFR 843.13 (c) and (d) because the State does not prescribe procedures for notice of the Board's order to show cause that are consistent with the procedures of 30 CFR 843.12. The omitted Federal provisions require that the Board's show cause notice, including a brief statement of the procedure for intervention in the proceeding, if practicable, be published

in a newspaper of general circulation in the area of the mining and reclamation site and that the notice be posted in the regulatory authority's offices, that the permittee request the hearing and that 30 days notice of the hearing be provided.

(vii) UMC/SMC 843.12(e) is inconsistent with 30 CFR 843.13(e) because the State does not require that the permittee immediately cease mining and fulfill certain other obligations after the Board determines that a pattern of violations exists.

(viii) Sections UMC/SMC 843.14 are inconsistent with 30 CFR 843.14 because the State's provisions do not prescribe procedures for the service of notices of violation and cessation orders that are consistent with those of 30 CFR 843.14.

(ix) Section 525(b) of SMCRA requires that a decision be made by the regulatory authority within 30 days of the receipt of a petition for the review of a cessation order. Neither the Utah regulations nor the Utah CMRA prescribe any time period for such a decision. The omission of this requirement in the Utah program makes the procedure for the review of cessation orders inconsistent with and less stringent than the Federal requirement.

(x) The definition in UMC/SMC 700.5 of "person having an interest which is or may be adversely affected or person with a valid legal interest" is inconsistent with the definition in 30 CFR 700.5, which provides that the state regulatory authority is covered by this phrase. The state has not included, in its analogue to "the state regulatory authority," the "Board" as well as the "Division," thus denying the Board standing it would have under the federal definition.

(r) The Division of Oil, Gas and Mining has the authority under Utah law and the Utah program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. The provisions for cooperation, coordination, and provision of documents are contained in Section 40-8-22 UCA of the Utah Mined Land Reclamation Act adopted by Section 40-10-4 UCA of the Utah CMRA.

(s) The following laws and regulations of Utah affecting its regulatory program, with the exception discussed below, do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII.

Utah Noxious Weed Act (4-17-1 to 12 U.C.A. 1953);

Historic District Act (11-18-1 to 6 U.C.A. 1953);

Air Pollution Control Act (26-24-1 to 26 U.C.A. 1953);

Air Pollution Control Act (26-24-4 to 15 U.C.A. 1953, as amended);

Solid Waste Management Act (26-35-1 to 5 U.C.A. 1953, as amended);

Open and Public Meetings Act (52-4-1 to 9 U.C.A. 1953);

Division of State History Act (63-18-1 to 38 U.C.A. 1953, as amended);

Administrative Rule-making Act (63-46-1 to 13 U.C.A. 1953);

Enabling Act-State Engineer (73-5-5 to 12 U.C.A. 1953);

Pollution of Waters Act (73-14-1 to 13 U.C.A. 1953);

Pollution of Waters Act (73-14-1 to 11 U.C.A. 1953, as amended);

a. H.B. 180, Creation of Historic Districts, 1967;

b. Division of State History—Executive Order, 1969;

c. H.B. 34 Utah State Antiquities Act, 1973;

d. Executive Order 1976;

e. H.B. 366, State Antiquities Act, 1977;

Oil Refinement Act (40-9-1 to 6 U.C.A. 1953, as amended, and General Rules and Regulations);

Utah Rules of Civil Procedure: Rule 4—Process, Rule 24—Intervention;

Wildlife Resources Code of Utah (23-14-3 to 23-22-3 U.C.A. 1953, as amended) and Other Laws Pertinent to Wildlife Resources;

Utah Safe Drinking Water Act (26-36-1 to 26-36-13 U.C.A. 1953);

Hazardous Waste Management Act (26-37-1 to 26-37-14 U.C.A. 1953).

(t) The Division of Oil, Gas and Mining and other agencies having a role in the program do have, except as discussed below, sufficient legal, technical, and administrative personnel and sufficient funds to implement administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws on non-Indian and non-federal lands.

OSM has undertaken an analysis of the proposed Utah staffing plan to assess Utah's ability to properly carry out inspection and enforcement activities and permitting functions as required by the Act. Based on this analysis, the Secretary finds that Utah needs to increase its proposed staffing level from 2.0 to 3.0 Full Time Equivalents (FTE) for inspection and enforcement and from 9.0 to 12.0 FTE for permit review and administration.

Disposition of Comments

The comments received on the Utah program during the public comment period further described under "Background on the Utah Program Submission" raised several issues. The Secretary considered these comments in evaluating Utah's program, as indicated below.

1. The Heritage Conservation and Recreation Service (HCRS) expresses concern that the Memorandum of Agreement between the Utah Division of Oil, Gas and Mining and the Utah Division of State History does not specify how the Division of Oil, Gas & Mining will respond to recommendations of the Division of State History regarding the historic, archeological, and other cultural resource reviews the Division of State History agrees to perform. HCRS is concerned that there is no mention in the Memorandum of possible permit stipulations for mine plan approval or denial of a permit under the "Designation of Lands Unsuitable" procedure.

SMC/UMC 761.12(f)(2) of the state regulations require joint approval by all affected agencies of a mine plan or permit for an operation that may adversely affect any park or historic place listed in the National Register of Historic Places.

Utah's language closely tracks the federal provision, 30 CFR 761.12(f)(2), which also forbids issuance of a permit without joint approval of all the affected agencies. The Secretary finds that this insures adequate and sufficient involvement of all agencies in the unsuitability designation processes.

2. The National Park Service (NPS) contends that it should be given an opportunity to directly participate in developing criteria for designating lands as unsuitable for surface coal mining near NPS units. These criteria, according to NPS, should be related to all resources of the NPS units, and to the indirect effects which may occur on fragile lands. NPS contends that the establishment of buffer zones around NPS lands must not be left solely to other agencies with interests potentially at variance with NPS policy, especially when the scenic and environmental integrity of the park lands may be involved.

Further, NPS requests that the State of Utah notify the NPS Regional Director, Southwest Region, before any decision is made to approve or deny exploration or mining and reclamation permits in areas where mining may have the potential to affect the resources of park units in Utah. In addition, NPS requests that it have the opportunity to be involved in setting bond amounts in such mining areas and it be allowed to participate in inspections in cases where

NPS units may be affected, especially when these cases where NPS units may be affected, especially when these inspections are in response to a petition, a citizen's inspection request, or for release of performance bond.

The state has provisions equivalent to the federal regulatory provisions that require the circulation of copies of a complete petition and the requesting of relevant information from interested agencies (UMC/SMC 761.15(b)(1)/30 CFR 761.15(b)(1)). In addition, the requirement that the mine plan or permit for an operation will not be issued unless jointly approved by all affected agencies (UMC/SMC 761.12(f)(2)/30 CFR 761.12(f)(2)) is contained in the Utah regulations. The Utah regulations (SMC 786.11, SMC 806.11, and SMC 843.15 and 16) further reflect the federal requirements for providing for notice and soliciting comments (UMC/SMC 786.11/30 CFR 786.11) on proposed bonding amounts, decisions on bond release (UMC/SMC 806.11/30 CFR 806.11) and notices of violations (UMC/SMC 843.15/30 and .16/30 CFR 843.15 and 16).

There is no provision in the Utah program nor in the federal regulations for federal agencies to participate in inspections other than through the citizen compliant provision in UMC/SMC 842.12. The Secretary finds that the state provisions for involvement of NPS in the program are consistent with the federal requirements.

Utah is committed to consultation with concerned agencies as demonstrated in its submission under 30 CFR 731.14(g) and (10) and in the cooperative agreement between the Governor of Utah and the Regional Forester, Intermountain Region, United States Forest Service, which is in Utah's program submission. The Secretary finds that Utah has satisfied the interagency coordination and review requirements of the Federal program. The NPS comments have been forwarded to Utah for consideration.

The Secretary has instructed the Park Service not to seek criteria in state programs which would establish "buffer zones" adjacent to National Parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for Federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that agency's approach to state unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

3. The U.S. Fish and Wildlife Service (FWS) suggests that procedural guidelines should be developed that would provide a single FWS input to the mine plan review process. Such input would address the Fish and Wildlife Coordination Act, the Endangered Species Act, the Corps of Engineers permit reviews under Section 404 of the Federal Water Pollution Control Act, NPDES, Section 10 permit reviews and any actions involving the Migratory Bird Treaty Act. FWS's comments have been forwarded to the state for consideration.

4. The Forest Service comments that the coordination required for development and approval of mine plans or for specific features of plans such as sediment ponds, roads and monitoring plans is unclear. The Forest Service suggests that prior to approval of any plan, the surface management agency must concur.

The Utah regulations follow the federal regulatory program requirements for coordination (30 CFR 761.12/UMC/SMC 761.12), notice (30 CFR 786.11(b) and (c)/UMC/SMC 786.11(b) and (c)), consultation (30 CFR 786.17/UMC/SMC 786.17) and the applicable approval (30 CFR 786.12(f)(2)/SMC/UMC 761.12(f)(2)) of other agencies in the review and approval of mine plans and permit applications. The Secretary finds that Utah's program satisfies the requirements of the federal program.

5. The National Park Service (NPS) contends that the Utah program does not provide for coordination with the Advisory Council on Historic Preservation as is allegedly required by Section 106 of the National Historic Preservation Act.

However, the Utah program fulfills the requirements of SMCRA and its implementing regulations for solicitation of comments from other state and federal agencies and review and coordination with these agencies. Furthermore, Section 106 of the National Historic Preservation Act addresses federal agencies, not state agencies. As is noted in the preamble to 30 CFR 731.14(g)(10), 44 FR 14956 (March 13, 1977), the Secretary believes that the requirement that a state identify a process for consulting such agencies is sufficient to assure compliance with other statutes.

6. In order to avoid confusing the general public and the states regarding the relation of the Secretary's program under the Mineral Leasing Act to the program under SMCRA, the Geological Survey recommends that Utah be informed of the respective responsibilites of the Interior agencies for coal management in the Bureau of Land Management (BLM)/Geological Survey (GS)/Office of Surface Mining (OSM) Memorandum of Understanding.

The Geological Survey also expresses concern that the Utah program makes no reference to procedures for processing exploration applications which include federal lands, and recommends that the state add language indicating that exploration applications for federal lands are submitted and approved pursuant to procedures identified in the BLM/GS/OSM Memorandum of Understanding.

The state is seeking approval of a state program for non-federal and non-Indian lands. As such, it is appropriate both of these concerns on the management of federal lands under an approved state program be developed as part of the cooperative agreement with Utah, in accordance with 30 CFR Part 745.

7. The Heritage Conservation and Recreation Service (HCRS) comments that numerous currently unidentified historic, archeological, and other cultural resources that may be eligible for the National Register could be destroyed on lost unless steps are taken in the permitting process to adequately insure the identification of such resources.

The Secretary finds that the Programmatic Memorandum of Agreement between OSM and the Advisory Council on Historic Preservation (See 45 FR 41988, June 23, 1980), when implemented will allow the State Historic Presevation Officer (SHPO) to have an integral part in insuring identification of historic lands for each permit application. However, 30 CFR 761.11(c) and 761.12(f)(1) have been suspended to the extent that surface coal mining operations are prohibited on lands that would affect places "eligible for listing on" the National Register of Historic Places and to the extent that the prohibitions apply to privately owned places listed on the National Register. Therefore, the Secretary must disapprove any portion of Utah's proposed program containing such language.

8. The Department of Energy (DOE) contends that Utah's narrative on assessing fees for permit applications set forth in its response to 30 CFR 731.14(g)(2) which requires a narrative

description of the proposed system for assessing fees in a state program submission, should be expanded to include the process the state will use in assessing the fees, as well as an explantation of how the estimated cost of reviewing applications has been determined.

Utah requires a five dollar permit application fee (UMC/SMC 771.25). This fee amount is consistent with the mandate of Section 40–10–10(2) UCA, Section 507(a) of SMCRA and 30 CFR 771.25. These require that each permit application be accompanied by a fee, to be determined by the regulatory authority, that may be less than but will not exceed the administrative cost of the permit. The Secretary finds that given the standard fee of five dollars, the Utah program and narrative comply with the requirements of SMCRA and 30 CFR 731.14(g)(2).

9. The U.S. Fish and Wildlife Service (FWS) suggest that OSM recommend to the state and baseline data guideline requirements be generated for all biological elements of a mine permit. Also, it would be desirable, according to FWS, to establish a written procedural guideline addressing the relationship between the state regulatory authority and the FWS.

The state program (UMC 783.20/SMC 779.20) contains those elements required by the federal program (30 CFR 779.20/783.20) for baseline data collection. The Secretary is not empowered to impose additional requirements on the state. FWS's comments have been forwarded to the state.

10. The Advisory Council on Historic Preservation (ACHP) objects that Utah's statue includes no requirements for data on historic properties to be submitted to the state regulatory authority. The commenter also expresses dissatisfaction with the information requirements of UMC 783.12, and the alleged absence of guidelines within Utah's program for the indentification and treatment of historic and cultural properties. In the absence of any affirmative effort by the applicant to identify and protect historic properties, the commenter maintains, the only protective mechanism is the petition process, which could result in last-minute conflicts. ACHP expresses the belief that Utah's Division of State History UCA 63–18–1 *et seq.* would provide reasonable protection if state approval of mine plans is construed to be the project of a state agency for the purpose of the Act, and if procedures were developed for identification of historic properties.

The Utah regulations follow the federal regulatory program requirements for coordination (SMC/UMC 761.12), notice (SMC/UMC 786.11 (b) and (c)/30 CFR 786.11 (b) and (c)), consultation (SMC/UMC 786.17/30 CFR 786.17) and the applicable approval (SMC/UMC 761.12(f)(2)/30 CFR 761.12(f)(2)) of other agencies in the review and approval of mine plans and permit applications. The Secretary finds that Utah's program satisfies the requirements of the federal program.

11. ACHP contends that the Memorandum of Understanding with the State Historic Presevation Officer (SHPO) which is contained in Utah's program (Volume I, page 204), is helpful in that it indicates a commitment on the part of the state to consult with the SHPO but it fails to indicate what the state will do with the information and recommendations provided. Furthermore, ACHP maintains that the Memorandum stipulates that the SHPO will proceed in accordance with 36 CFR Part 800, which is applicable only to federal undertakings. Thus ACHP concludes that the SHPO is committed to proceeding in accordance with an inapplicable authority.

The Secretary finds that the state's memorandum and regulations fulfill the requirements of the federal program under 30 CFR 786.11(c) and 30 CFR 786.17 for the coordination, solicitation and review of other state and federal agencies' comments on permit applications.

12. It is noted by the Department of Energy (DOE) that Utah's definition of "intermittent stream" in UMC/SMC 700.5 incorporates the condition that such streams must flow for 30 consecutive days in any year, while the federal definition in 30 CFR 701.5 stipulates that such streams drain at least one square mile. DOE asks that the state explain how its definition will better protect the environment than the federal definition.

The Secretary agrees that Utah should delete the provision in its definition of "intermittent stream" that requires that streams flow for 30 consecutive days. Utah's definition does not cover ephemeral streams which drain areas greater than a square mile, as do the federal regulations. In order to be consistent with the requirements of 30 CFR 816/817.44, the state should incorporate protection for such streams in UMC 817.44(a) and SMC 816.44(a). Those sections set forth requirements for stream channel diversions within the permit area. (See Finding 4(c)(x)).

13. The Bureau of Mines indicates that it believes that the Utah regulation for removal of topsoil is inconsistent with the federal provision. The state has added to its analogue to 30 CFR 816.22 (SMC 816.22(g)), a paragraph which sets forth requirements for the removal of topsoil and subsoil under adverse conditions. The state allows an exception to the requirements of 30 CFR 816.22 to remove topsoil or subsoils in a separate layer from an area to be disturbed by surface operations when the operator demonstrates to the satisfaction of the Division that (1) such actions are unsafe or impractical because of the local environmental conditions and that (2) the operator will fulfull the requiremenst of § 816.22(e) in the use of substitute materials. These provisions are consistent with the federal program.

14. The Forest Service contends that the Utah program should define subsoil, and that it should be made clear that overburden is that which is below the typical A, B and C horizons. The Forest Service disputes the accuracy of Utah's definition in UMC/SMC 700.5 of topsoil as being the A horizon, contending that in certain situations topsoils should be considered part of the B horizon.

The Secretary identified the Utah definition of topsoil as a deficiency in the Utah program (See Finding 4(c)(iii)).

15. The Bureau of Mines points out that Utah UMC 817.23(b)(1)(i)/SMC 816.23(b)(1)(i) exceeds 30 CFR 817/816.23(b)(1)(i) by allowing the use of soils and soil substitutes in operations such as pads, parking lots and road embankments. The Secretary agrees with the Bureau of Mines and has identified this provision as an inconsistency in the Utah program (See Finding 4(c)(vii)).

16. The Forest Service suggests that the definition of "arid and semiarid" SMC/UMC 700.5 could be improved with the addition of information on seasonal moisture availability rather than a simple comparison of water use by plants to total precipitation.

The Utah definition in UMC/SMC 700.5 reflects the language of the federal definition (30 CFR 701.5). The Secretary lacks the power to impose further requirements on the state.

17. DOE, the Environmental Protection Agency (EPA) and the Bureau of Mines express concern with Utah's definitions in UMC/SMC 700.5 of "head-of-hollow fill" and "valley fill", in that the definitions appears to allow coal processing waste to be used in such fills.

The Secretary agrees with the commenters that Utah must correct its definitions of "head-of-hollow" and "valley fills" in such a way that Utah regulations are consistent with 30 CFR 701.5 (See Findings 4(c)(v)).

18. EPA notes that 30 CFR 817.42(a)(3)(ii)(B) allows an exemption from the requirement to use

sedimentation ponds for drainage from underground mine workings "only if there is no mixture of that drainage with drainage from surface areas," but that Utah is less stringent by allowing the exemption when "there is no mixture of surface drainage from the underground mine working." The Secretary agrees that the omission of the requirements of 30 CFR 817.42(a)(3)(ii) (A) and (B) in the Utah regulations is a deficiency in the Utah program (See Finding 4(c)(viii)).

19. The Mine Safety and Health Administration (MSHA) notes that UMC 817/SMC 816.44(b)(2) require that diversions be designed to divert drainage from an upstream area and to be able to carry the peak runoff from a 100 year 24 hour precipitation event. MSHA states that its guidelines call for a 100 year, six hour precipitation event, which is more stringent.

Utah's regulations, UMC 817/SMC 816.44(b)(2), are identical to the requirements of 30 CFR 816/817.44(b)(2). The Secretary is satisfied that Utah has fulfilled the federal program requirements.

20. The Bureau of Mines points out what it believes to be a number of deficiencies in the area of fill design and construction. Specifically, in MSC 816.43(b), Utah requires that permanent diversions be constructed with "sloping banks" rather than with "gently sloping banks" as required in 30 CFR 816.43. In addition, SMC 816.72(b)(3) does not specify the minimum size and composition of under-drains for valley fills, as is required by 30 CFR 816.72(b)(3).

The Secretary agrees that these omissions are deficiencies in the Utah program (See Findings 4(c) (ix) and (xxi)).

21. The Bureau of Mines notes that SMC 816.46(o) of the Utah regulations allows the use of coal processing waste as construction material in sedimentation pond embankments providing it has been demonstrated through engineering and chemical testing to be suitable. The Bureau contends that this is less stringent than 30 CFR 816.46(o), which does not allow the use of coal processing waste.

The Secretary agrees with the commenter and has identified this as a deficiency in the Utah program (See Findings 4(c)(xxi)).

22. The EPA, Bureau of Mines, DOE and U.S. Army Corps of Engineers point out that Sections SMC 816.71–74 and UMC 817.71–74 of the Utah regulations are not consistent with 30 CFR 816/817.71–74. Specifically, the state allows the use of non-acid and non-toxic forming coal processing waste in excess spoil, head-of-hollow and valley fills, and the federal provisions do not.

By definition (30 CFR 701.5) head-of-hollow and valley fills are fill structures consisting of any material other than coal processing waste. However, coal processing waste can be used in structures located in a valley or head-of-hollow. When coal processing waste is used, the structure is simply not a "head-of-hollow fill" or "valley fill". While the Utah regulations recognize this distinction, they are deficient in that they do not impose the requirements of SMC 816/UMC 817.93 when the material is placed in a steep slope area and has the potential to impound water. (See Finding 4(c)(xxi)).

23. The EPA, Bureau of Mines and U.S. Army Crops of Engineers also notes that UMC 817/SMC 816.71 allow the Division to approve a static safety factor less than 1.5 and that 30 CFR 817/816.71 does not. The Secretary agrees that this is a deficiency in the Utah regulations that must be corrected (See Finding 4(c)(xx)).

24. The Bureau of Mines notes that Section UMC 817.71(g) differs from the 30 CFR 817.71(g) in that the State allows depressions and impoundments on completed fills and the federal provision does not.

The Secretary agrees with the commenter that this is a deficiency in the Utah regulation that must be corrected (See Finding 4(c)(xx)).

25. The Bureau of Mines expresses concern regarding SMC 816.46(b)(1), in which the state introduces flexibility into 30 CFR 816.46(b)(1), which requires that sediment ponds provide a sediment volume equal to the accumulated sediment volume from the drainage area to a pond for a minimum of three years. Utah allows smaller sediment ponds.

The Secretary has voluntarily suspended several permanent program regulations as a result of arguments presented in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144 (See 44 FR 77453 (December 31, 1979)). Sediment storage design capacity, in addition to sedimentation pond size as prescribed in 30 CFR 816.46(b) and 817.46(b) were suspended by the Secretary. Thus, the Secretary is affirmatively disapproving UMC 817/SMC 816.46(b).

26. MSHA notes that Utah's analogue, SMC 816.49(i), to 30 CFR 816.49(i), requires that plans for any enlargement, reduction, reconstruction, or other modification of dams or impoundments shall be submitted to the Division of Oil, Gas and Mining for approval. MSHA maintains that they must also approve of any such change to the original approved design plan. The state regulation is identical to 30 CFR 816.49 in its provision for the review, approval and inspection of permanent and temporary impoundments, and the Secretary is not empowered to impose requirements on the state which are not contained in the federal rules. Neither the state or federal program supersedes MSHA responsibilities.

27. In its comments, EPA asserts that Utah's analogues, UMC 817/SMC 816.45, to 30 CFR 816.45 and 817.45 regarding sediment control measures should be modified to specify that the best technology currently available must be used to control sediment. Utah has omitted this requirement. The Secretary agrees with EPA and has noted this to the state as a deficiency that must be corrected (See Finding 4(c)(xi)).

28. EPA asserts that Utah's analogues, SMC 816/UMC 817.46(a), to 30 CFR 816.46(a) and 817.46(a), which concern sedimentation ponds, should be modified to specify that sedimentation ponds represent the best technology currently available and must be used. EPA also remarks that Utah should explain the meaning of "a determination of practicality" as used as a criterion for construction of smaller than standard sedimentation ponds in SMC 816/817.46(b)(1). The Secretary agrees with EPA's comment on SMC 816/817.46(a) and has identified this as a deficiency that must be corrected in the state program. (See Finding 4(xi)). With regard to EPA's second comment on sedimentation pond storage volume criteria, the Secretary suspended 30 CFR 816/817.46(b) in 44 FR 77453 (December 31, 1979). The Secretary was ordered by the court affirmatively to disapprove provisions in state programs that incorporate regulations suspended by the Secretary or remanded by the court in the case. The Secretary's action complying with this order is contained in the section "Secretary's Decision—Approval in Part/Disapproval in Part."

29. 30 CFR 816.52(a)(1) requires that groundwater levels, infiltration rates, subsurface flow, and storage characteristics of the land to be mined be monitored to determine the effects of surface mining activities. The Bureau of Mines and EPA contend that because Utah permits (in UMC 817/SMC 816.52(a)(1)) monitoring to be minimized in situations where no aquifer exists, the state's program may be less stringent. The Secretary agrees that this is a deficiency of the Utah program that must be corrected (See Finding 4(c)(xiv)).

30. The Mine Safety and Health Administration (MSHA) expresses concern about the Utah analogues to 30 CFR 816/817.82(a), SMC 816/UMC

817.82(a), which allow inspection of coal processing waste banks by any person approved by the Division. MSHA requires that such inspections be conducted only by "qualified persons."

The state regulations are identical to the federal regulations in providing for the site inspection of coal processing waste banks. Neither the state nor the federal program supersedes MSHA's regulations. The Secretary is not empowered to impose upon states requirements beyond those contained in the permanent program regulations.

31. EPA objects to the addition of language in the state's analogues, SMC 816/UMC 817.57(a), to 30 CFR 816.57(a) and 817.57(a). The state's language would appear to specify that a land area would not be considered a "stream buffer zone" if it was not "important to downstream fishery," whereas the federal language refers to biological communities within 100 feet of a stream. The Secretary agrees with EPA that the noted provision in UMC/817/SMC 816.56(a) is a deficiency that must be corrected by the state (See Finding (4)(c)(xvi)).

32. EPA asks for an explanation of the state's analogues, SMC 816/UMC 817.89(b), to 30 CFR 816.89(b) and 817.89(b). The state requires that final disposal of noncoal wastes shall be in a designated disposal site in the permit area, "except where such wastes are disposed of in an approved sanitary landfill." EPA is concerned that this exception, which does not appear in 30 CFR 816/817.89(b), may allow operators to avoid designating disposal sites within the permit area.

The Secretary finds that Utah's provision for the disposal of non-coal waste at approved sanitary landfills is more stringent than the provisions of 30 CFR 816/817.89(b).

33. EPA questions Utah's intent in omitting the requirement of 30 CFR 816.103(a)(1) that coal and acid and toxic forming materials be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material. SMC 816.103(a)(1) requires no minimum cover and only requires that all debris, acid-forming materials, and toxic material constituting a fire hazard be treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface water.

30 CFR 816.103(a)(1) and 817.103(a)(1) were suspended by the Secretary in response to litigation. (See discussion under "General Background" and pages 10–11 of *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144). The Secretary was ordered affirmatively to disapprove provisions in state programs that incorporate regulations suspended by the Secretary or remanded by the court in the case. The Secretary's action complying with this order is contained in the section entitled "Secretary's Decision-Approval in Part/Disapproval in Part."

34. EPA notes that Utah omitted from its analogue (UMC/SMC 828.11(b)(3)) to 30 CFR 828.11(b)(3) the language of the federal regulation which calls for avoiding annular injections between the wall of the drill hole and the casing in in situ processing activities. The Secretary agrees with EPA and has identified this as a deficiency in the Utah regulations (See Finding 4(c)(xxxii)).

35. EPA expresses concern as to whether the staffing of Utah's regulatory authority will be adequate to carry out the program requirements. Specifically, EPA asserts that the workload estimate contained in Utah's narrative under 30 CFR 731.14(j) does not seem to include site visits to coal exploration areas and projects fewer inspections than would seem necessary. EPA questions whether the Utah staff will be adequate to handle its duties under SMCRA and the Underground Injection Control program as mandated by EPA, as well as the other activities of the Division. The Secretary agrees with commenter that additional staff is necessary to administer and implement the Utah program (See Finding 4(t)).

36. EPA points out that as described in Utah's narrative to 30 CFR 731.14(k), there are two Memoranda of Understanding between the Division of Oil, Gas and Mining and the Division of Water Rights, one of which is unsigned. The two MOUs are essentially identical, except that the signed one is between the Division of Oil, Gas and Mining (DOGM) and the Utah Division of Water Rights, Dam Safety Section. EPA questions if the draft MOU is a proposed change.

The MOU between DOGM and the Utah Division of Water Rights, which was submitted as a draft, was never entered into by the two Divisions, as the Utah statute Section 40–10–29 UCA prescribes that nothing in the Act will be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation. This section of the Utah statute is identical to the provisions of Section 717 of SMCRA. As described by its title, the Division of Water Rights administers the waters of the state, including appropriation and distribution thereof.

37. The Forest Service points out that Utah's analogue, UMC 817.97(d)(2), to 30 CFR 817.97(d)(2) should be modified to include the requirement that roadways be fenced to guide wildlife to roadway overpasses.

The Secretary agrees with the Forest Service that this is a deficiency of the Utah program that must be corrected (See Finding 4(c)(xxxv)).

38. EPA expresses concern that the job description for the geohydrologist given in Utah's narrative under 30 CFR 731.14(i) is not adequate. EPA believes that the job description should put more emphasis on dealing with ground and surface water contamination, ground water problems related to subsidence, and the need for expertise during the operation of a mining plan.

In the "Summary of Duties" for Utah's Mine Reclamation Hydrologist, which is contained in the state's March 3, 1980 program submission (page 352), general responsibilites are defined that address the EPA areas of concern. The Secretary finds that these duties are adequate.

39. The Department of Energy suggests that Utah's narratives in its March 3, 1980 program submission on performance bonds and liability insurance, inspection and monitoring, permit performance standards, employee conflict of interest and statistical information should be in greater detail and in non-regulatory language so that they would be of greater usefulness to the coal mine operator. The Secretary finds that Utah's narrative meets the requirements of 30 CFR 731.14 for content, consistency and level of detail.

40. EPA expresses concern that Utah's program does not require that notices of violation (NOV) be served in as expeditious manner as is required by 30 CFR 843.14. According to EPA, the state's procedures are vague as they are presented in both the state's narrative contained in its March 3, 1980 program submission (page 241), and in UMC/SMC 843.14.

The Secretary agrees with EPA that the Utah regulations are deficient in that they do not prescribe measures consistent with 30 CFR 843.14 for service of orders and notices. This deficiency has been identified and must be corrected (See Finding 4(q)(viii)).

41. EPA indicates that Utah's definition in UMC 700.5 of "underground operations" does not include "in situ processing", "reclamation of shafts and audits", or "undeground support facilities" as does the definition of "underground mining activities" in 30 CFR 701.5.

The Secretary agrees with EPA's comment and has identified this as a deficiency that must be corrected by the state (See Finding 4(c)(i)).

42. The Environmental Policy Institute (EPI) and the Public Lands Institute (PLI) contend that Utah's definition, in UMC 700.5 of a "person having an interest which is or may be adversely affected or person with a valid legal interest" should be modified to include the Division and "Board" as the regulatory authority, as they would be under 30 CFR 700.5.

The Secretary agrees that this modification is necessary to insure that the Board's actions are deemed to afford persons standing where such persons interests are adversely affected by the Board's actions. This has been identified to the state as a deficiency that should be corrected (See Finding 4(g)(x)).

43. Once commenter argued that "aguifer" is defined by Utah at UMC 700.5 in a more restrictive manner than in the Federal regulations because the state adds water "quality" as a criterion for determining whether a stratum capable of carrying water is an aquifer. The Secretary agrees with the commenter and has identified this as a deficiency that must be corrected by the state (See Finding 4(c)(xxxvi)).

44. EPI and PLI contend that Utah's definition of "existing structures" in UMC 700.5 must be revised to include facilities connected with surface as well as underground mines. The definition in 30 CFR 701.5 includes facilities connected with "surface coal mining operations."

Since Utah's underground mining regulations (UMC) and surface mining regulations (SMC) are mutually exclusive, the definitions in each regulation have been modified by the state to be consistent with the type of mining being addressed. Thus, the definition in SMC 700.5 refers to facilities used in conjunction with surface coal mining activities and the UMC 700.5 definition refers to underground coal mining activities.

45. One commenter argues that in Utah's analogue, Section 40–10–19 UCA, to Section 517 of SMCRA, right of entry is available only for "surface mining operations" and not for underground coal mining operations. The commenter deduces this from the fact that the exact phrase "surface coal mining operation," which Utah defines to include underground operations was not used.

Sections 40–10–19(2)(a) and (b) UCA contain the same right of entry provisions as Section 517(b)(3) of SMCRA, with the exception that Utah further requires in (b) that the right of entry shall be a condition of obtaining an approved state permit to conduct surface mining operations.

This additional requirement does not contradict any of the provisions of SMCRA. Further, the condition is also contained in 30 CFR 786.27 and in UMC/SMC 786.27. The Secretary finds Utah's provisions consistent with those of SMCRA for right of entry authority.

46. EPI and PLI express concern that UMC 700.14(b) refers to 43 CFR Part 2 regarding availability of records. The commenters request clarification as to whether Utah is in effect adopting, by regulation, the federal Freedom of Information Act and privacy acts provisions as implemented in 43 CFR Part 2.

Utah was requested in the May 21, 1980 Regional Director's letter to the state to clarify UMC/SMC 700.14(b). Utah stated, in its June 16, 1980 program submission, that there is no state statutory equivalent of the Freedom of Information Act or Privacy Act under state law. The Secretary alerted the state to this deficiency (See Finding 4(1)(iii)).

47. PLI and EPI note that Utah has included in UMC/SMC 761.4(a) the responsibilities in 30 CFR 761.4(a) of the Secretary of Interior related to determining whether an operation can be allowed on federal lands under Section 522(e) of SMCRA, which designates certain areas unsuitable for mining. The commenter maintained that this authority should be documented and found proper by the Secretary, or this section should be deleted. UMC/SMC 761.4(a) are identical to 30 CFR 761.4(a), and as such are consistent with the federal program.

48. PLI and EPI question whether Utah's use of the word "activities" in UMC 761.5(a)(1), has a meaning different from the word "operation" which appears in 30 CFR 761.5(a)(1). The state consistently refers to "suface coal mining activities" in the surface regulations and "underground coal mining activities" in the underground regulations where the term "surface coal mining operations" is used in the federal regulations. The state's terms, with the correction of the deficiency noted in Finding 4(c)(i), will be consistent with the use of the term "surface coal mining operations" in the federal regulations.

49. PLI and EPI point out that Utah omits from its definition of "valid existing rights" in SMC 761.5 three essential parts of that definition as it appears in 30 CFR 761.5(a), (b), and (c), and that Utah has no equivalent to the federal definition in UMC 761.5.

The March 3, 1980 Utah program submission contained several "paste-up" errors in the section-by-section comparison of the state and federal regulations. These errors were identified and a "corrected set" of comparisons submitted by Utah on March 11, 1980. This information was put in the administrative record and noted as being material to be used in reviewing the program. The Utah regulations for surface coal mining contain provisions in SMC 761.5(a), (b) and (c) that are identical to those of 30 CFR 761.5, and UMC 761.5 also contains a definition of "valid existing rights" that is consistent with the definition in 30 CFR 761.5.

50. EPI and the Southern Utah Residents Concerned About the Environment (SOURCE) note that Utah's regulation UMC 764.13, regarding the petition for the designation of lands as unsuitable for surface coal mining, appears to require more information from a petitioner than does 30 CFR 654.13. UMC 674.13 requires information on the ownership and the "legal description" of the area. SOURCE contends that this discourages public participation. SOURCE also states that further information requirements such as "legal description," "ownership," and "identification of petitioner's interest" must be eliminated, and that a statement must be made that the petitioner has a right to be given full consideration regardless of the inclusion of information. The Secretary has identified these deficiencies to the state for correction (See Findings 4(k)(iv)).

51. SOURCE and PLI object to Utah's statute, Section 40–10–24(1)(c) UCA, which provides that the criteria for the designation of lands unsuitable for coal mining must "be balanced against the economic impact of the designation in a cost-benefit analysis." Section 522 of SMCRA does not provide that the criteria are to be "balanced" against the economics of the designation.

SOURCE also notes that Section 40–10–24(1)(e) UCA of the Utah CMRA excludes commitments prior to March 15, 1978 from the designation process, while Section 522(a)(6) of SMCRA uses the date of January 4, 1977. SOURCE contends that the state must use the date from SMCRA. The Secretary disagrees with the commenters. (See Finding 4(k)(ix), (x), and (xi)).

52. PLI and EPI state that Utah's analogue (UMC/SMC 764.21) to 30 CFR 764.21, concerning the data base and inventory system requirements of the designation process, should give a date by which the system will be started. The commenters contend that without a date, the mandate to start a data base is meaningless.

Utah has initiated the development and use of a data base and inventory system. The Division's materials are filed in the Lands Unsuitable Library contained in the Division's office at 1588 West North Temple, Salt Lake City, Utah.

53. SOURCE indicates that Utah's analogue, Section 40–10–10(3) UCA, to Section 507(e) of SMCRA should be amended to show that the implementation of the Small Operator's Assistance Program will not be contingent upon receipt of funding from the Office of Surface Mining.

The Secretary agrees with this concern and has disapproved this aspect of the Utah program (See Finding 4 (o)(i)).

54. EPI and PLI assert that Utah's provision in UMC/SMC 806.11(a) to accept accumulated funds bonds as performance bonds is unacceptable without further explanation and specific approval of this alternative system by the Secretary, pursuant to SMCRA 509(c). According to the comments, it appears that the accumulating fund bond essentially allows the bond amount set by the Department to be paid in installments by the permittee, which would be unacceptable because there would be no assurance, in the event of bond forfeiture, that the Division would have sufficient funds to complete the necessary reclamation work.

The Secretary agrees with the commenters that an accumulating fund bond does not insure that sufficient monies are available to ensure completion of the reclamation plan should the operator default at any time. The Secretary has identified this as a discrepancy in the state's regulations (See Finding 4(h)(iii)).

55. PLI and EPI argue that to be consistent with Judge Flannery's first-round decision, SMC/UMC 807.11(e) should be amended to provide for access to the mine site during an informal conference on bond release.

The affirmative disapproval of UMC/SMC 807.11(e), insofar as it does not provide for access to the mine site during an informal conference on a bond release, is part of the Secretary's partial approval/partial disapproval of the Utah program. The Secretary's actions pursuant to the court decision in *In re: Surface Coal Mining Regulation Litigation*, Civil Action No. 79–1144, (February 26, 1980, pp. 41–42) are described in the General Background on State Program Approval Process Section contained in this notice.

56. EPI and PLI note that contrary to Section 519(f) of SMCRA, Section 40–10–16(6)(a) UCA has no provision for holding a formal bond release hearing in the state capital or in the locality of the mine, at the option of objector. They also note that SMC/UMC 807.11(h) specifies Salt Lake City as the site for all bond release hearings.

The Secretary agrees with the commenters that Section 519(f) specifically requires that the objector have the right to request that the location of a bond release hearing be in the city or town nearest the mine site or in Salt Lake City, at his or her option. This discrepancy has been identified to the state (See Finding 4(h)(v)).

57. One commenter points out that Section 40–10–11(e)(ii) UCA provides an exception from the alluvial valley floor permit requirements for mines operated or permitted after the enactment of SMCRA, but prior to the effective date of the Utah statute. The commenter claims that this is inconsistent with and less stringent than Section 510(b)(5) of SMCRA, which exempts only operations which were permitted or in operation in the year preceeding August 3, 1977. This cannot be considered a "minor deficiency," the commenter asserted, unless Utah can demonstrate that no mine falls into this category.

The Secretary agrees with the commenter that the difference in the Utah statute must be revised to reflect the dates of SMCRA. This deficiency has been identified for correction by the state (See Finding 1(a)(ii)).

58. One commenter points out that in Section 40–10–17(2)(j)(ii)(B) UCA, the reference to "(2)(h)(ii)" should be "(2)(j)(ii)." The error is identified in Finding 1(a)(iv).

59. One commenter states that Section 40–10–19 UCA fails to implement SMCRA 517(b)(1), which empowers the regulatory authority to impose monitoring requirements on a case-by-case basis. The state's provision in Section 40–10–19 UCA authorizes the Division to impose monitoring requirements only pursuant to rules and regulations. According to the commenter, Utah has no authority to require an underground mine operator to monitor for subsidence, since the division may only impose monitoring requirements by rule and the state has no rule authorizing the imposition of subsidence monitoring.

The same commenter notes that Utah's counterpart (Section 40–10–19 UCA) to SMCRA 517(b)(2) does not impose a mandatory duty to conduct specified monitoring to measure water quality and quantity at described locations whenever an operation will remove or disturb strata that serve as aquifers, as is required by SMCRA.

Section 40–10–19(1) UCA of the Utah CMRA directs "any permittee to provide information relative to surface coal mining and reclamation operations as the Division deems reasonable and necessary in the Division's implementing rules and regulations." The state has carried out this provision in its regulations for subsidence monitoring (UMC 784.20/30 CFR 784.20), surface and ground water monitoring (UMC 784.14(h)/30 CFR 784.14(h)), (SMC 780.21(b)/30 CFR 780.21(b)), (UMC 817/SMC 816.52/30 CFR 817.52). The state's provisions are consistent, except as noted in these findings with the comparable federal provisions.

The Secretary finds that Utah has the necessary authority, as set forth in its statute and regulations to require monitoring on a site by site basis and as such is consistent with and as stringent as the federal program.

60. One commenter notes that Utah has identified as items for consideration under the "state window" provision, 30 CFR 731.13(c): (1) A variance to the requirements of 30 CFR 816.71(k) and 817.71(k) which would allow the disposal of acid-forming and toxic-forming wastes in valley or head-of-hollow fills; (2) a variance in 816.45(a) and UMC 817.45(a) that would allow an exemption to the use of sediment ponds; and (3) a modification in SMC 816.102(a)(2) and UMC 817.101(b)(1), that would allow the retention of exposed highwalls in certain circumstances. The commenter asserts that these state provisions provide open-ended exceptions from the federal requirements and are not backed up with supporting data or material as is required by 30 CFR 731.13(c).

Utah proposed only one state window for approval by the Secretary. That state window proposed an alternative for steep slope underground coal mining (UMC 817.101(b)(1)). Utah submitted on July 24, 1980 supporting documentation for consideration by the Secretary in his review of the state's proposed alternative as required by Section 731.13(c) (See Finding 4(b)(i)). The state's changes in UMC 817/SMC 816.71(k) and UMC 817/SMC 816.45(a) identified by the commenter have been identified by the Secretary as deficiencies that the state should correct (See Findings 4(c)(xx) and 4(c)(xi)).

61. EPI and PLI express the belief that Utah regulation UMC 840.11, regarding state inspections, appears to limit the inspection requirement to underground mines. If this is the case, the comment concludes, the provision must be changed to include surface and related facilities consistent with 30 CFR 840.11.

As discussed in Finding 4(a)(i), underground mining is regulated by the provisions of the "UMC" regulations and surface mining by the "SMC" regulations. Section SMC 840.11 sets forth procedures for state inspections of surface coal mining and related facilities.

62. SOURCE asserts that Utah's counterpart (Section 40–10–18(3) UCA) to SMCRA 516(c) should be changed so that underground mining in urbanized or commercial areas or adjacent to permanent streams can be suspended in imminently dangerous situations by the regulatory authority without the imposition of the notice or hearing requirements required by the state.

In the May 21, 1980 Regional Director's letter, the State of Utah was requested to provide an opinion from Utah's Attorney General clarifying the state's interpretation of the state's analogue, Section 40–10–18(3) UCA, to Section 516(c) of SMCRA. Utah submitted on July 24, 1980, an Attorney General opinion that stated that under the state's analogue, Section 40–10–22(b) UCA, to Section 521(a)(2) of SMCRA, the Division will issue an immediate cessation order where imminent danger exists to public health and safety. Such an order, under Section 40–10–22(1)(e), UCA will terminate within 30 days of its issuance unless a hearing is held. Under Section 40–10–18(3) UCA, that hearing must be before the Board. At that hearing, the Board will make a determination as to whether the operation will be indefinitely suspended (i.e., permanently enjoined). The hearing, which SOURCE is concerned about, will occur after the mining is stopped. The Secretary has determined that Utah's statute will immediately stop mining where there is imminent danger to the public health and safety and that a statutory change is unnecessary. (See Finding 4(j)(i)).

63. SOURCE and PLI state that Utah's statute should include the requirement of Section 517(f) of SMCRA, which states that the regulatory authority will provide information on surface mining and reclamation operations in central and sufficient locations in the county, multicounty and state area of mining so that the information will be conveniently available to residents in the areas of mining.

As noted by PLI and SOURCE, the state statute does not include specific language similar to that in Section 517(f) of SMCRA. However, in Section 40–10–19(6) UCA, the state statute does require copies of any records, reports, inspection materials or information obtained under the chapter by the Division to be made immediately available to the public. The state's implementing regulations, UMC/SMC 840.14(b) and those in 30 CFR 840.14(b), require such information to be made available to the public in the area of mining so that it is conveniently available to the residents of the area. The Secretary finds that these provisions satisfy the requirements of the federal program.

64. EPI and PLI contend that Utah has merely repeated in UMC/SMC 840.15 the language of 30 CFR 840.15 regarding public participation in enforcement of the state program. The commenters allege that Utah does not have attorney's fee regulations similar to those at 43 CFR 4.1290–96, nor has it provided for discovery or intervention procedures for administrative hearings consistent with 43 CFR Part 4.

The Board of Rules of Practice and Procedure, Rule B–14, contained in the March 3, 1980 program submission, provide that the pleading and evidence provisions of the Utah Rules of Civil Procedures shall be applicable to the state program.

The Utah Rules of Civil Procedure are equivalent to the federal Rules of Civil Procedure. Thus, the Secretary finds that Utah's procedures for pleading and evidence are consistent with those of 43 CFR Part 4, since it is derived from the Federal Rules of Civil Procedure.

The Secretary has pointed out to Utah the need to adopt procedures for the award of attorneys fees, intervention and discovery that are consistent with 43 CFR Part 4 and to amend UMC/SMC 840.15 to reflect applicable state rules and regulations. (See Findings 4(q) (i) and (v)).

65. PLI notes that UMC/SMC 842.12(b) provide for confidentiality of identities of persons supplying information concerning inspection and enforcement violations, they also allow the identities of such persons to be disclosed if required by state or federal law. 30 CFR 842.12(b) does not provide such an exception for state laws. The federal rule provides that the person alleged to be in violation shall receive a copy of the written results if a review of a decision not to inspect or enforce, except that the name of the complaining citizen shall not be disclosed unless federal law requires it. The commenter states that the ability to disclose the identity of citizens supplying information may deter citizen participation if Utah has or develops lenient disclosure laws. Furthermore, the commenter asserts Utah's disclosure laws are not found in the submission. The commenter notes that the same problem exists in the State's analogue, UMC/SMC 842.15(b) to 30 CFR 842.15(b).

30 CFR Section 842.12(b) and 842.15(b) require that confidentiality be maintained unless disclosure is required under the Freedom of Information Act or other federal law. The Secretary agrees with the commenter that Utah's reference to state *or* federal law in UMC/SMC 842.12(b) and .15(b) is inconsistent with the federal provision in that it allows disclosure or the identity of persons supplying information on inspections and enforcement if such disclosure is required by state law even if such disclosure would not be allowed under federal law. Utah must delete the reference to state law. (See Finding 4(1)(iii)).

66. EPI and PLI express concern that the Utah statute does not provide for informal review of a failure to enforce, as required by SMCRA 517(h).

While the Utah CMRA does not contain a direct analogue to Section 517(h) of SMCRA, Section 40–10–6(1)(g) authorizes to the Board and Division to make and promulgate rules and regulations necessary for the regulation of coal mining and reclamation. UMC/SMC 842.15 provides for the review of a decision not to inspect or enforce. These provisions are consistent with those of 30 CFR 842.15, which implements Section 517(h) of SMCRA.

67. SOURCE notes that Utah's provisions UMC/SMC 843.12(a)(2), which are comparable to 30 CFR 843.12(a)(2), allow issuance of a notice of violation, but do not provide for additional notices and orders when violations persist, as does the federal regulation. The commenter asks that a statement be included to require follow-up.

30 CFR 843.12(a)(2) applies to the federal inspector when he or she has reported a violation to the state for action and has given a written report of such action to the person responsible for the violation and no action has been taken by the state. As such, the provision is not applicable to the state.

68. EPI and PLI note that UCA Section 40–8–4 authorizes the state's Board to issue "emergency orders" with or without a hearing. This, according to the commenter, could cause conflict, confusion and litigation over the interaction between this emergency order and the requirement to issue a cessation order in the event of imminent danger as prescribed by UCA Section 40–10–22(1)(b) the state's analogue to Section 521(a)(2) of SMCRA. The commenters argue that Utah must clearly indicate that the emergency order in no way affects the mandatory field issuance of imminent danger orders.

Sections UMC/SMC 900 of the Utah regulations identify the provisions of the Utah Mined Land Reclamation Act of 1975, Chapter 8 of Title 40 and its implementing rules that are considered consistent with Chapter 10 of title 40, UCA. These sections also specifically

identify those provisions of Section 40–8 UCA that are superseded by or adopted under Chapter 10 of Title 40. The definition of "emergency order" in Section 40–8–4(15) UCA and the power of the Board to issue emergency orders, as prescribed by Section 40–8–4 UCA and Section 40–10–22 UCA does not exist.

The commenters also contend that the state's statute, Section 40–10–22 UCA, should be amended to ensure that an imminent danger order may be carried out upon field inspection without permission of the Board, and to ensure that field inspection can be carried out by inspectors or any other qualified person, as set out in SMCRA 521(a) (2) and (3). In addition, they argue that Section 40–10–22(1)(d) UCA, should be amended to provide for mandatory issuance of a show cause order, rather than discretionary issuance by the Board, which is in direct conflict with SMCRA 521(a)(4).

Sections 40–10–19 and 22 UCA do not require the Board's permission prior to an inspection. Further, these sections of the Utah CMRA and the state's implementing regulations, UMC/SMC 843, prescribe that inspections will be conducted and enforcement actions taken by "the Division, the Director, or authorized representative." The Secretary finds these provisions to be consistent with those of SMCRA and 30 CFR Chapter VII (See Finding 4(g)(ii)).

Section 40–10–22(d) UCA prescribes that upon a determination by the Division that a pattern of violations exists, the Divison will request the Board to issue a show cause order. The state has been alerted to the need to provide in the regulations that a show cause order will be issued by the Board when a determination is made (See Finding 4(q)(iii)).

69. PLI comments that Utah's counterpart (UMC/SMC 843.13(d)) to 30 CFR 843.13(d), concerning hearings on suspensions or revocations of permits, cites the Board's Rules of Practice and procedure, Part 900(b)(ix), as the state's procedures governing hearings, but that this document is not included in the state's submission. According to PLI, Utah should either adopt the federal rules found in 43 CFR Part 4, or resubmit and supply copies of the rule in question.

Utah's submission of the Board's Rules of Practice and Procedure is contained in Volume 1 of the state program submission of March 3, 1980. The Secretary has identified as a deficiency in the Utah program the omission, in UMC/SMC 843.13, of notice procedures consistent with those of 30 CFR 843.13(c) and (d) and 43 CFR Part 4 (See Findings 4(q)(i) and (vi)).

70. EPI, PLI and SOURCE express concern that Utah's analogues (40–10–22(1)(b) and (c) UCA and UMC/SMC 843.11 and .12) to SMCRA 521(a)(2) and (3) and 30 CFR 843.11 and .12 fail to insure mandatory field enforcement and create the possibility that the field inspector will report to the Division and that the Division will decide whether to enforce. This approach, according to the commenters, creates the possibility that field inspectors will not be vested with full cessation order (CO) and notice of violation (NOV) authority as required by the federal provisions.

Section 40–10–22(b) UCA authorizes the Division of Oil, Gas and Mining to immediately issue a cessation order when it is determined that a condition, practice or violation exists that creates an imminent danger to the health and safety of the public or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air or water resources. Section 40–10–22(1)(c) UCA further authorizes the Division to issue NOVs. As further discussed in Finding 4(g)(ii), the Secretary has determined that state inspectors have and will use the necessary authority to inspect and enforce, and that the Utah program provides for mandatory field enforcement.

71. PLI recommends that Utah's counterparts (UMC/SMC 845.17(c)) to 30 CFR 845.17(c) be amended to contain language similar to the language in the federal provision that provides that penalties shall be reviewed and reassessed unless a conference has been requested.

The Secretary has noted this discrepancy to the state for correction (See Finding 4(i)(ii)).

72. In its comments, PLI asserts that Utah must include in its regulations the provisions of 30 CFR 845.18 which provide a procedural mechanism for reviewing civil penalty assessments when requested by the person to whom the notice or order was issued.

Utah, as discussed in Finding 4(i)(iii), does not provide for an informal conference on a NOV or CO prior to a public hearing on a proposed penalty. In that Finding, the Secretary determines that SMC/UMC 845, Utah's procedures for the hearing prior to payment of the penalty, are consistent with those of the 30 CFR 845. In his review of the UMC/SMC 845, however, the Secretary determines that these regulations do not include a process for requesting the Board's review of the proposed penalty in a formal hearing as prescribed by 30 CFR 845.18. The state needs to incorporate provisions consistent with 30 CFR 845.18(a) for this process.

73. In its comments, PLI remarks that Utah must include in its regulations a provision equivalent to 30 CFR 845.19(a), which provides that a permittee may petition in order to contest a proposed penalty. UMC/SMC 845.17 and .19 leave the permittee with only a judicial remedy, which the commenter asserts is more restrictive on the permittee than the federal rules.

Utah does not have informal conferences prior to adjudicatory hearing. As discussed in Finding 4(i)(iii), the Secretary considers the Utah provisions to be consistent with the federal requirements.

74. PLI stresses that Utah, in UMC/SMC 845.20(c) is only required to pay permittees an interested rate of 6% whereas the analogous federal regulation, 30 CFR 845.20(c) specifies 6% or the prevailing Department of Treasury rate on the penalty in escrow, whichever is greater, in the event the permittee has been overcharged. The Secretary finds that Utah's provision is acceptable (See Finding 4(i)(i)).

75. EPI and PLI remark that Utah should change "approves" to "disapproves" in the first sentence of Section 40–10–16(4) UCA, which is the state's counterpart to SMCRA 519. This error has been pointed out to the state (See Finding 1(a)(iv)).

76. PLI expresses concern regarding the statement in Part G–4 page 240 of the March 3, 1980, Utah submission that violations observed during a state inspection will be brought to the attention of the appropriate company representative, and that a formal notice will be issued later by registered mail. The commenter points out that minesite issuance of notices of violation and cessation orders will apparently not be the practice, as is required by Section 521 of SMCRA and 30 CFR 843. The commenter expresses the belief that this is a major deficiency in the Utah program which must be corrected with an affirmative statement of minesite authority.

Based on Utah's July 24, 1980 program submission, the Secretary has determined that Utah has the authority to issue COs and NOVs on site (See Finding 4(g)(ii)).

77. EPI, PLI, and the Southern Utah Residents Concerned About the Environment (SOURCE) contend that Utah's policy, rule and decision making Board should be subject to the conflict of interest provision of Section 517 of SMCRA and Section 40–10–19 UCA. Instead, claims SOURCE, board members are specifically excluded from the prohibitions found in UMC/SMC

705, which forbid Division employees from having financial interests in mining operations. PLI and EPI contend that the current board is tied too closely to the mining industry, thus jeopardizing citizens' rights to a fair and impartial hearing guaranteed them by the Administrative Procedures Act and the Constitution.

The Secretary has interpreted his rules to permit members of multi-interest boards, established by a statute, to have interests in coal companies other than a company, if any, involved in the particular proceeding before the board. At this time state programs can also allow members of such boards to have these interests in coal companies. However, the Secretary has proposed to amend his rules on this subject. See 44 FR 52098–52101, September 6, 1979. The Secretary considers this to be an important issue, and intends to make a final decision on conflicts of interest of board and commission members in the near future. The Department is currently evaluating various alternatives, ranging on the one hand, from leaving the present rules and interpretations unchanged to, on the other hand, a blanket prohibition against conflict of interest by any person performing any function, even an advisory one. Between these two extremes lies the possibility of exempting only members of boards which are exclusively advisory in nature. Until the regulation is changed, it remains the standard for judging the adequacy of State program submissions. For the purposes of State program approval, the objections now raised are untimely and should have been within 60 days after the rule was adopted. Section 526 of SMCRA. If the Secretary changes the rules, or his interpretation of the present rules, states will be required to amend their programs as necessary to make them consistent with the new requirements.

78. EPI and PLI maintain that Utah's program does not appear to have adequate inspection resources to meet the minimum number of inspections required by Section 517 of SMCRA.

The Scretary agrees with this assessment and has pointed out to Utah the need to employ additional staff for the administration, inspection and enforcement of the Utah program. (See Finding 4(t)).

79. PLI alleges that Utah has failed to enforce the requirements of SMCRA, the Cooperative Agreement and the state statute insofar as it has provisions similar to SMCRA. PLI also contends that it would be unwise for the Secretary to approve a state program if that state has failed to carry out applicable requirements in the past.

30 CFR 732.15 states that the Secretary shall not approve a state program unless, on the basis of information contained in the program submission, comments, testimony and written presentations at the public hearings, and other relevant information, the Secretary finds that the state program satisfies the requirements of (a) through (d) of that section. All of these criteria address the capability of the state to carry out the proposed state program. As explained in the federal preamble, 44 FR 14961 (March 13, 1979) no provision in SMCRA states or suggests that state permanent programs can be disapproved on an evaluation by the Secretary of the state's good or bad faith concerning its interim program performance. Rather, the Secretary is to evaluate the state's activities in his oversight role under Section 504(a)(3) of SMCRA and 30 CFR Part 733.

80. PLI and EPI urge that OSM not permit Utah to cure deficiencies in its program by the improper use of Attorney General opinions, regulation changes and letters from state officials to OSM employees. Such cures, they argue, create new problems, such as regulations which invite lawsuits because of the lack of supporting sections in the state law, and a confusing, contradictory, and piecemeal state program. The program should be comprehensible so that citizens can protect their interests.

The Secretary regards the Attorney General as an expert on state law in Utah. Attorney General opinions are used to resolve ambiguities, not to cure deficiencies.

Regulation changes are appropriate where they are supported by the state law and have not been relied upon where such support is lacking. Under 30 CFR 732.15, the Secretary is to consider "information contained in the program submission" as part of the basis for his decision on state programs; there is no requirement that all aspects of the federal statute must be covered by direct state *statutory* authority, as long as they are adequately covered in the program. Specific comments criticizing the use of regulations in particular instances have been considered in the specific situation involved.

Policy statements are also part of the state program and are binding promises as to how the program will be administered. The Secretary's approval of this program is based upon the state's policies as expressed in these statements, and any failure by the state to abide by these promises would be a violation of its program, just as a violation of its statute or regulations would be.

The Secretary does not agree that this state program is piecemeal. This document reflects the Attorney General opinions and policy statements relied upon in approving Utah's program, and the public can refer to it as a unified source of information.

81. One commenter expresses the belief that Part F of Utah's program contains supporting agreements with other state agencies which fail to conform to the federal criteria for approval or disapproval of state programs found under Section 503(a)(2) and (3) of SMCRA and 30 CFR 732.15. In order for the Division of Oil, Gas, and Mining to have all the authority required for a state program approval, it is argued, the state must show that it has the legal power to deny a mining permit in any case where the deficiencies in the permit application relate to areas where other agencies have jurisdiction and to take enforcement action for requirements that are established by other agencies in permits that address some of the requirements applicable to mining permits, and that the other agencies which retain enforcement authority will take enforcement actions consistent with SMCRA.

The Utah regulations contain provisions consistent with those of 30 CFR Chapter VII for (1) coordination and issuance of permits for surface and underground coal mining activities with any other state or federal permit process applicable to the mining activities, the requirements of any water quality management plans and the applicable requirements of the Endangered Species Act, Fish and Wildlife Coordination Act, and the National Historic Preservation Act (UMC/SMC 770.12/30 CFR 770.12), (2) permit application compliance information (SMC 778.14/UMC 782.14/30 CFR 778.14/30 CFR 782.14), (3) measures to be taken during reclamation to comply with the requirements of the Clean Air Act, the Clean Water Act and other applicable air and water quality laws and regulations and health and safety standards (SMC 780.18(b)(9)/30 CFR 780.18(b)(9)/UMC 784.13(b)(9)/30 CFR 784.13(b)(9)); (4) solicitation of comments on the proposed permit from Federal, State and local government agencies (UMC/SMC 786.11(c)/30 CFR 786.11(c)); and (5) review of permit applications (UMC/SMC 786.17/30 CFR 786.17)). The state has submitted cooperative agreements which the Secretary finds satisfy the requirements for coordination, review and implementation required by the federal program. The Secretary has determined that the Utah program fulfills the requirements of the federal program for

the coordination and implementation of the program with other agencies.

82. PLI and EPI are concerned that Utah has not demonstrated, either through past performance or through flow charts or other appropriate documents included in the state's submission, that it is capable of carrying out the inspection and enforcement provisions of SMCRA. The commenters also request that a report on a study being conducted on Utah's recent inspection performance be entered into the public record at such time as the study is completed, and if this request cannot be granted, that all OSM records concerning Utah inspections be so entered. The Secretary agrees with the commenters that additional staff is necessary for the Division of Oil, Gas and Mining to administer and implement the program (See Finding 4(t)). The materials submitted by PLI and EPI on the noted report on July 24, 1980, are contained in the Utah Administrative Record.

83. EPI and PLI contend that Section 40–8–9 UCA, Utah's judicial review provision, creates the possibility for overlap with the state's citizens' suit provisions in Section 40–10–21 UCA, and that the state should be requried to make it clear when each of there provisions apply, in order to avoid needless litigation. The commenters also state that Utah should be required to indicate that attorney fees are available in actions against the Board.

The citizen suit provision of Utah's statute, 40–10–21 UCA, is identical to that of the Section 520 of SMCRA, with the exception of one phrase addressed in Finding 4(q)(xi). Utah's provisions for citizens' suits may possibly overlap with its provisions for judicial review, UCA 40–8–9 UCA. However, these is no more overlap with those provisions than there is in the various federal provisions such as Section 526 of SMCRA, and the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701 *et seq.* (1976). The Secretary has determined that Utah's provisions are fully consistent with those of SMCRA.

Attorneys' fees against the Board are specifically provided for in UCA Section 40–10–21(4) which is consistent with the Section 520(d) of SMCRA.

84. EPI and PLI contend that Utah's program appears to restrict intervention in administrative proceedings before the Board. In Rule B–11 of the Board's Rules of Practice and Procedures, (Volume II Submission) the state limits presentation of evidence to "interested parties" who are "affected by the application," which is in direct conflict with 43 CFR 4.1110. UMC/SMC 900(h)(ix) replaced the term "interested parties" with "interested persons."

Utah's definition of "interested person" in UMC/SMC 700.5, which is identical to the definition of 30 CFR 700.5, makes it clear that almost anyone, environmental organizations and individuals in particular, may appear before the Board in any proceeding.

85. EPI and PLI comment that the waiver provision of Section 63–46–5(3) UCA could enable the state to waive any rulemaking procedure, if it finds the procedure "impracticable, unnecessary, or contrary to public interest." Under this provision an agency could waive notice and comment proceedings as "unnecessary" or "impracticable," the comment concludes, and could undercut the rights a citizen possesses under 30 CFR 700.12 to petition to initiate rulemaking.

The Utah provision regarding waiver of strict procedures of the rulemaking process is borrowed directly from Section 4 of the Federal Administrative Procedure Act, *as amended*, 5 USC Section 553 (1976). The Utah provisions are, therefore, consistent with federal law.

86. Regarding citizens' suits, EPI and PLI assert that Utah should delete the provisions in the state statute (See UCA 40–10–21) which allows a suit against the United States in state court, arguing that a suit against the federal government is appropriately brought only in federal court. Second, the comment contends that Utah should be required to show that its statutory law provides as much access to the state courts as *SCRAP* II, 412 U.S. 669 and *Sierra Club v. Morton* 405 U.S. 727 (1972) allow to the federal courts. They also comment that Utah should be required to guarantee in its program submission that attorney fees can be awarded against citizens only if they act in bad faith.

First, the Secretary agrees that Utah cannot allow suits against federal agencies or the United States in a State court. The state's language cannot confer such jurisdiction. (See Finding 1(a)(v).)

Second, the language in Section 40–10–21 UCA on citizen suits which refers to "any person having an interest which is or may be adversely affected," is identical to that of Section 520 of SMCRA.

The Secretary has identified the need to the state to adopt language regarding attorneys' fees that is consistent with 43 CFR 4.1290–1296 (See Finding 4(q)(i)).

87. SOURCE, EPI and PLI object to UMC/SMC 700.12, Utah's analogues to 30 CFR 700.12. The Utah regulations restrict the right to petition for rulemaking to an "interested" person pursuant to Section 63–46–8 UCA, while the federal regulation permits petitioning by "any person." The Secretary has disapproved UMC/SMC 700.12 pending classification from the state or submission of an appropriate rule change. (See Finding 4(1)(v).

88. EPI and PLI assert that Utah should be required to show that the discovery procedures in the Utah Rules of Civil Procedure are as broad as those contained in 43 CFR 4.1130–41.

The discovery rules in 43 CFR 4.1130–41 are based directly on the Federal Rules of Civil Procedure Rules 26–37. As Utah's Rules of Civil Procedure follow the Federal Rules, they are acceptable.

89. One commenter states that "arid and semi-arid area" is defined in UMC/SMC 700.5 in a manner which allows debate over whether any particular mine-site is in such an area. The commenter argues that the definition in 30 CFR 701.5 contains a conclusive finding that all coal fields in Utah are in an arid or semi-arid area.

On July 24, 1980, Utah submitted data as part of its "state window" discussion that documents that Utah's climate is semi-arid to arid. Further, the Utah definition is consistent with the federal definition in how an area is determined to be "arid or semi-arid". Based on these provisions, the Secretary has determined Utah's definition to be consistent with that of 30 CFR 701.5.

90. EPI and PLI contend that Utah's analogues (UMC/SMC 845.17 and .19) to 30 CFR 845.18(b)(2) do not clearly authorize a citizen to attend and participate in informal civil penalty conferences.

As mentioned in Finding 4(i)(iii), Utah does not have an informal civil penalty conference. Utah provides an opportunity for a hearing before the Board and then judicial review as requested. Under Utah's Open and Public Meetings Act, 52–4–1 UCA, all meetings of the Board are open to the public. The Secretary finds that Utah provides citizen access consistent with that prescribed in 30 CFR 845.18(b)(2).

91. Utah International, Inc. (UI) expresses support for language in SMC 816.46(a) of the Utah regulations which allows the state discretion in the imposition of sedimentation pond requirements. It is not uncommon for streams in the state to carry high sediment loads at various times of the year, the commenter notes, and to mandate that sediment ponds be required to meet prescribed effluent limits would restrict the Division's ability to cost-effectively manage water quality in various regions of the state.

The Secretary has identified to the state the need to delete the phrase "when it is determined that sedimentation ponds are necessary" to be consistent with 30 CFR 816.46(a). (See Finding 4(c)(xi)).

92. UI expresses the belief that sediment control performance standards in 30 CFR 816/817.4 should be revised. Specifically the commenter states that the concept of sediment as a pollutant should be revised, that performance standards for sediment control should be quantified on a "volume" basis rather than a "concentration" basis, and that the 10-year, 24-hour storm criterion should be deleted and a more practical criterion developed.

The Secretary voluntarily suspended 30 CFR 817/816.42(a)(1)(7), 817/816.42(b), 817/816.46(b), (c) and (d) in 44 FR 77452–77453 (December 31, 1979) as a result of arguments presented in *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). The Secretary's action on UMC 817/SMC 816.42(a)(1)(7); 42(b); and 46(b), (c) and (d) is presented under "General Background on the Permanent Program."

93. UI contends that UMC/SMC 785.19 do not address the economic importance to agriculture of affected alluvial valley floors, as intended by Congress.

The commenter notes that Section 510(b)(5)(a) of SMCRA provides that in order for an area to be protected as an alluvial valley floor, the area must satisfy certain geomorphic, environmental, and economic conditions.

The court has remanded to the Secretary for revision 30 CFR 785.19(e)(1)(ii) and (2) in order to exclude from hydrology requirements those areas of negligible prime farmland interruption and undeveloped range lands and to allow a small acreage exemption. See *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, (February 26, 1980, pp. 51–53). The Secretary published on July 11, 1980, in 45 FR 46820–46826, notice of the provisions in the Utah program proposed for disapproval. UMC/SMC 785.19(e)(1)(ii) and (2) were contained in that list. The Secretary's action on those items as part of his partial approval/partial disapproval of the Utah program appears in the section of this document entitled "General Background on the Permanent Program."

94. UI comments that except for the approximate original contour provisions, the same general performance standards in UMC 817 and SMC 816 that are applicable in flat or gently rolling terrain, including watershed control, revegetation practices, and a suitable post-mining land use, should apply to steep slope mining. The commenter questions the assumption that a change in topography necessarily results in an alternative post-mining land use.

Utah has proposed a "state window" for underground mining in steep slope terrain. The Secretary has identified inconsistencies with 30 CFR Chapter VII in the state's implementing regulatory provision, UMC 817.101(b)(1), that need to be addressed before the Secretary may approve the proposed state window. (Finding 4(b)(i)).

95. One commenter asserts that since Utah's submission does not contain all required and fully enacted laws and regulations, the Secretary is required by 30 CFR 732.11(d) to disapprove the state program, that any supplement to Utah's program submitted after the 104th day must be treated as a resubmission under 30 CFR 732.13(f), and therefore be subject to the minimum 15 day comment period and public hearing.

The Secretary agrees with the commenter, as reflected in his partial approval/partial disapproval of the Utah program.

96. One commenter requests that comments made at the July 21, 1980 public hearing in Salt Lake City should be included in the public record and made available for public review prior to the close of the rule-making record.

The administrative record is available for inspection at the locations identified in the "Addresses" section of this document. The Secretary does not agree that the comment period should be kept open as long as commenters wish to review and respond to the record. To do so would effectively preclude closing the comment period as long as parties chose to debate issues on the record.

97. One commenter expresses the opinion that the Secretary is required by the Administrative Procedure Act to publish notice of his intended action on Utah's proposed program prior to taking final action in areas where SMCRA allows discretion.

The process for approving or disapproving state programs fully complies with the requirements for proper notice of the proposed decision pursuant to Section 4 of the Administrative Procedure Act, [APA] *as amended*, 5 U.S.C. 553 (1976). Upon receipt of a state's program submission, the Secretary publishes in the register a notice, informing the public that the process for consideration of the program has begun. After publishing a second notice announcing his determination of the program's completeness, the Secretary publishes a third notice commencing public comment on the substantive adequacy of the program. These notices, together with other **Federal Register** notices they cite clearly explain to the public that the Secretary is proposing to take one of three actions: unconditionally approve the program, in whole, to approve the program conditioned upon minor deficiencies being corrected or to disapprove part or all of the program submission. This satisfies the requirement that the public be informed of the proposed action, before a final decision is made.

98. One commenter contends that Utah's analogue (Section 40–10–18(2)(a) UCA) to Section 516(b)(1), of SMCRA is not as stringent as the federal statute. These provisions require operators to adopt measures to prevent subsidence. The state statute closes with the proviso that "nothing in this subsection shall be construed to prohibit the standard methods of mining", while SMCRA provides that nothing in the subsection "shall be construed to prohibit the standard method of room and pillar mining." The commenter asserts that one principle sustained throughout the Act, without exception or limitation, is that the value and foreseeable uses of surface lands are to be maintained. The state's language, which would allow all standard methods, could result in serious subsidence. The Secretary agrees with the commenter and has disapproved this portion of the Utah program. (See Finding 1(a)(vi).)

99. The Environmental Policy Institute and the Public Lands Institute state that Utah has no time limit on rulemaking procedures as required by 30 CFR 700.12. The commenters are incorrect. Section 63–46–8 UCA requires a response to a petition for rulemaking within 30 days of the request. 30 CFR 700.12 only requires a response within 90 days of the receipt of the rulemaking petition.

F. Secretary's Decision

The Secretary finds that parts of the Utah program submission meet the criteria for approval in Section 503(a) and (b) of SMCRA and parts do not meet these criteria. Accordingly, the Utah program is approved in part and disapproved in part.

Approval in Part

The following program parts are approved:

(a) The Utah Coal Mining and Reclamation Act (Utah CMRA) Chapter 10 of Title 40, with the exceptions in Finding 1(a) and listed under "Disapproval in Part."

(b) The Utah regulations submitted March 3, 1980, except those sections disapproved under Findings 4(b)-(t), and listed under "Disapproval in Part", and those regulations disapproved in

accordance with the district court's Order.

(c) The Utah program provisions for administrative, legal and technical personnel and funding for the regulation of surface coal mining and reclamation operations and enforcement of the environmental standards with the exception in Finding 4(t) and noted under "Disapproval in Part."

(d) The program provisions to:

(1) Coordinate the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit process applicable to the proposed operations.

(2) Require that persons extracting coal incidental to government-financed construction maintain information on site.

(3) Regulate coal exploration and prohibit coal exploration that does not comply with the performance standards required by SMCRA.

(4) Provide for administrative review of state program actions.

(5) Cooperate and coordinate with and provide documents and other information to the Office.

(6) Require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives.

Disapproved in Part

1. The following statutory provisions of the Utah program are disapproved:

40-10-10(3) UCA—Small Operator Assistance Program Funding
40-10-11(2)(e)(ii) UCA—Permit requirements with regard to the protection of alluvial valley floors
40-10-11(4) UCA—Permit requirements with regard to the protection of prime farmlands
40-10-17-(2)(j)(ii)(B) UCA—Reference to "2(b)(ii)" should be to "2(j)(ii)".
40-10-16(4) UCA—The word "approves" should be "disapproves."
40-10-21 UCA—Suits against the United States in state courts.
40-10-18(2) UCA—Subsidence provisions.

2. The following regulatory provisions of the Utah program are disapproved:

Definitions—
UMC/SMC 700.5, "underground operations"
UMC/SMC 700.5, "surface operations"
UMC/SMC 700.5, "coal exploration"
UMC/SMC 700.5, "topsoil"
UMC/SMC 700.5, "coal"
UMC/SMC 700.5, "head-of-hollow fill"
UMC/SMC 700.5, "valley fill"
UMC/SMC 700.5, "applicant"
UMC/SMC 700.5, "intermittent stream"
UMC/SMC 700.5, "aquifer"
Performance Standards—
UMC 817.23 (b)(1)(ii), SMC 816.23 (b)(1)(ii)—Topsoil storage
UMC 817.42 (a)(3)(ii)(A)—Sedimentation pond exemption criteria
UMC 817.43 (b), SMC 816.43 (b)—Permanent diversion construction requirement
UMC 817.44 (a), SMC 816.44 (a)—Intermitent stream channel diversion requirements
UMC 817.45 (a), SMC 816.45 (a)—Sediment control requirements
UMC 817.46 (a), SMC 816.46 (a)—Sedimentation pond requirements
UMC 817.46 (o), SMC 816.46 (o)—Sedimentation pond construction requirements
UMC 817.49, SMC 816.49—Permanent and temporary impoundment construction requirements
UMC 817.52 (a)(1), SMC 816.52 (a)(1)—Surface and ground water monitoring
UMC 817.53 (c), SMC 816.53 (c)—Liability for approved transfer of a well
UMC 817.57 (a), SMC 816.57 (a)—Buffer zone criteria for perennial and intermittent stream
UMC 817.65, SMC 816.65—Use of explosives: surface blasting requirements
UMC 816.68 (s)(2)—Seismographic record requirements
SMC 816.71 (a), (f), (g), (j), UMC 817.71(a), (f), (g), (j)—Disposal of excess spoil requirements
SMC 816.72(a), (a)(2); (b)(1-4); (c), UMC 817.72(a); (a)(2); (b)(1-4); (c)—Disposal of excess spoil: valley fills
SMC 816.73, UMC 817.73—Disposal of excess spoil: head-of-hollow fills
SMC 816.74(b)(2); UMC 817.74(b)(2)—Disposal of excess spoil: Durable rockfills
SMC 816.93(a), UMC 817.93(a)—Coal processing waste: Dams and embankments: Design and construction
SMC 816.102(a)(2)—Backfillings and grading: General grading requirements
SMC 816.103(a)(1); UMC 817.103(a)(1)—Backfilling and grading: coverings coal and acid—and toxic-forming materials
SMC 816.104(b)(1)—Backfilling and grading: Thin overburden
SMC 816.105(b)(5)—Backfilling and grading: Thick overburden
UMC 817.101(b)(1)—Underground mining—Backfilling and grading: General requirements
SMC 816.111(b)(1)—Revegetation: General requirements
SMC 816.116(b)(1), UMC 817.116(b)(1)—Revegetation: Standards for success
UMC 817.124(b)—Subsidence control: Surface owner protection
UMC 817.126(a) and (c)—Subsidence Control: Buffer zones
UMC 826.12(a)—Steep slope—Performance standards
UMC/SMC 828.11(b)—In situ processing: Performance standards
UMC 817.97(d)(2), SMC 816.97(d)(2)—Protection of Wildlife
Permit Requirements—
SMC 779.19(a)—Vegetation Information
UMC 784.20(b)(3)(v)—Subsidence control plan
UMC/SMC 785.19 (c)(1) and (3)—Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid or semi-arid areas of the 100th meridian.
UMC/SMC 786.19(h)—Criteria for permit approval or denial
UMC/SMC 788.12(a)(1)—Permit Revisions
UMC/SMC 788.18(b)(2)—Transfer, assignment or sale of permit rights: General requirements
Performance Bonds—
UMC/SMC 800.5—"current assets"
UMC/SMC 800.5—Definition of "accumulating final bond"
UMC/SMC 805.13(b)—Period of liability
UMC/SMC 806.11—Accumulating fund bond
UMC/SMC 806.12(e)(2), (5) and (6); (g)—Terms and conditions of the bond
UMC/SMC 807.11(h)—Procedures for seeking release of performance bond—Public hearing
Civil and Criminal Sanctions—
UMC/SMC 845.20(c)—Final assessment and payment of penalty
UMC/SMC 845.19—Request for hearing
Designate areas unsuitable for surface coal mining—
UMC 761.11(a)(3), UMC 761.11(c), UMC 761.11(b)(1)—Areas where mining is prohibited or limited
UMC/SMC 762.5—Definition of "area"
UMC/SMC 764.13(b), (b)(2), (b)(4), (b)(5) and (b)(6)—Procedures: Petitions—Designation information requirements
UMC/SMC 764.13(c)(2), (c)(4), (c)(5)—Procedures: Petitions—Termination information requirements
UMC/SMC 764.15(b)(2)—Procedures: Initial processing, record keeping, and notification requirements
UMC/SMC 764.17(a)—Procedures: Hearing requirements
Public Participation—
UMC/SMC 771.21(b)(1)—Permit application filing deadlines
UMC/SMC 786.14—Informal conferences
UMC/SMC 700.14(b)—Availability of records
UMC/SMC 700.12—Petitions for rulemaking
Indirect and Direct Financial Interest—
UMC/SMC 705.6—Penalties
UMC/SMC 705.21—Appeals procedures
Small Operator Assistance—
UMC/SMC 795.3—Authority

UMC/SMC 795.5—Definition of "probable hydrologic consequences"
UMC/SMC 795.14(f)(2)—Filing for assistance
Employee Protection—Utah has omitted the provisions of 30 CFR 865 for employee protection.

Administrative and Judicial Review—
UMC/SMC 840.15—Public participation
UMC/SMC 845.20(a)—Final assessment and payment of penalty
UMC/SMC 700.13(b)—Notice of citizen suits
UMC/SMC 843.12(e)—Notice of violation
UMC/SMC 843.14—Service of notices of violation and cessation orders
UMC/SMC 843.16—Formal review of citations
UMC/SMC 700.5—Definition of "person having an interest which is or may be adversely affected or person with a valid legal interest"

3. *The Utah staffing proposal is disapproved.* In accordance with the May 16, 1980, court order, the Secretary must affirmatively disapprove State program sections equivalent to remanded or suspended Federal regulations as discussed above under "Background on State Program Approval Process". The following provisions of the State program which are based on remanded requirements will be affirmatively disapproved in accordance with the May 16, 1980, court order unless the State of Utah demonstrates that it adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, or (3) if a responsible state official has requested the Secretary to approve them:

UMC/SMC 700.5, the definition of "mine plan area," and the use of the term in Parts SMC 779, SMC 780, UMC 783 and UMC 784 to the extent that they require information outside the permit area that is not specifically articulated in Sections 507 and 508 and the corresponding Utah statutory provisions of 40-10-10 UCA.

UMC/SMC 701.11(d)(1) (i) and (ii), relating to exemptions for existing structures, to the extent that the exemptions are not mandatory after the appropriate findings are made.

In SMC/UMC 761.5(a)(2)(i), the definitions of "valid existing rights," to the extent they do not allow recognition of such rights an operator may claim by having made a good faith effort to obtain all permits before 8/3/77 as stipulated by the court's decision.

SMC 761.11(c), 761.12(f)(1) and UMC 761.11(a)(3) and .12(b) to the extent that they prohibit or restrict mining near places eligible for listing on the National Register of Historic Places, and the words "or a statutory or regulatory responsibility for" in UMC/SMC 761.12(f)(1). Further, both provisions disapproved to the extent that they apply to privately owned places listed on the National Register of Historic Places in addition to publicly owned places.

IMC/SMC 776.11(b)(3), concerning the requirements for maps of the proposed exploration area.

UMC/SMC 761.11(b)(5), concerning the requirement that operators explain their basis for the exploration area when the surface is owned by a person other than the operator.

SMC 779.20, SMC 780.16, UMC 783.20, and UMC 784.21 requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

SMC 779.21 and UMC 783.21 to the extent they require a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

SMC/UMC 785.17(b)(3) and SMC/UMC 823.14(c), concerning excessive soil compaction, pending OSM's promulgation of a standard for soil compaction.

SMC/UMC 785.17(b)(8), to the extent that they require prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrounding area.

UMC/SMC 785.19(d)(2)(iii) and (iv) to the extent that the regulations do not allow on analysis from data collected over a period of less than one year or extrapolated from existing data if such shorter period or extrapolation process is sufficient to enable the regulatory authority to make a determination of the impact of the proposed operation on the hydrologic balance of the area.

UMC/SMC 785.19(3)(1)(ii) insofar as the regulations do not allow negligible farmland interruption and undeveloped range lands as exclusions to the hydrologic requirements of Section 40-10-11(2)(e) UCA of the Utah statute.

UMC/SMC 785.19(e)(2) insofar as they prohibit mining when the mining would create a negligible impact on the farm's productive capacity.

SMC/UMC 805.13(d) to the extent that the exception the regulatory authority may grant might be from all of Section 816.

UMC/SMC 806.12(e)(6)(iii), (g)(7)(iii) to the extent they require cessation of operations upon the insolvency of a surety.

UMC/SMC 807.11(e) to the extent they fail to provide for citizen's access to the mine site for performance bond release.

UMC/SMC 808.12(c) to the extent that they limit bond liability to protection of the hydrologic balance.

UMC/SMC 808.14(b) to the extent they allow the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete a reclamation plan.

SMC 816.42 (a)(1) and (a)(7) to the extent they apply effluent limitation standards to the reclamation phase of a surface coal mining operation.

SMC 816.42(b) and UMC 817.42(b), relating to effluent standard exemptions during major storm periods, pending OSM's promulgation of new sediment removal regulations.

SMC 816.46(b) and UMC 817.46(b), concerning sediment storage volume in sediment ponds, pending OSM's promulgation of new requirements.

SMC 816.46(c) and UMC 817.16.46(c), concerning detention time for water in sediment ponds, pending OSM's promulgation of new requirements.

SMC 816.46(d) and UMC 817.46(d) to the extent they require dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

SMC 816.46(h) and 817.46(h), concerning sediment removal from sediment ponds, pending OSM's repromulgation of rules.

SMC 816.65(f), requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities and which restricts blasting at distances greater than 300 feet.

SMC 817.95 and SMC 816.95, concerning air resources protection, to the extent the control measures enumerated for control of fugitive dust are not directly related to control of soil erosion.

SMC 816.115 and UMC 817.115 to the extent they require an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

UMC 817.116(b) and SMC 816.116(b) to the extent that they state that an operator's responsibility for successful revegetation does not begin until the vegetation reaches 90 percent of the natural cover in the area.

SMC 816.133(b)(1) and UMC 817.133(b)(1) to the extent they do not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

SMC 816.133(c) and UMC 817.133(c) to the extent they require an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

UMC/SMC 823.11(c), 823.15(b), and 823.15(c) to the extent they require an operator on prime farmland to actually return the land to crop production. The land needs only to be "capable" of supporting the designated use.

UMC/SMC 845.13 and 845.14 to the extent they impose a civil penalty point system.

Sections UMC 783.25 (c), (h), and (i) to the extent that they require cross sections, maps and plans as part of the information requisite of an underground permit application.

Section UMC 817.54 to the extent that it requires an underground operator to replace the water supply of landowners if the operation contaminates, diminishes or interrupts the supply.

Sections UMC/SMC 823 to the extent that they do not allow an exemption to the performance standards for operations on prime farmlands for surface facilities used over extended periods of time but which effect a minimal amount of land.

In its May 16, 1980, opinion, the court invalidated OSM's road classification system set forth in 30 CFR 701.5 and 30 CFR 816.150–176 on procedural grounds. The Utah road classification system, the Utah regulations SMC 816.150–176 and UMC 817.150–181 and the definition of "road" in UMC/SMC 700.5 are similar to OSM's, but were promulgated without procedural defects. Nevertheless, Utah's road classification system would be disapproved to comply with the court's order.

The court suspended the requirements of 30 CFR 816.83(a) and 30 CFR 817.83(a) to the extent that they would preclude an exemption from the underdrain requirements for coal processing waste banks where an operator could demonstrate that an alternative to the required subdrainage system would ensure structural integrity of the waste bank and protection of ground or surface water quality. The Utah regulations SMC 816.83(a)(1) and (2) and UMC 817.83(a)(1) and (2) provide for the exemption, as specified by the Court. Nevertheless, Utah's provisions for water control measures for coal processing waste banks would be disapproved to comply with the court's order.

The court suspended 30 CFR 816.103(a)(1) insofar as it does not allow for treatment as an alternative to covering certain types of materials. SMC 816.103(a)(1) of the Utah regulations does allow treatment in lieu of the cover requirement. Nevertheless, Utah's provision would be disapproved to comply with the court's order.

The court suspended 30 CFR 783.14(a)(1) insofar as it requires a geologic description of the strata down to and immediately below any coal seam for areas to be affected only by "surface operations and facilities" where no removal of overburden down to the level of coal seam will occur. Utah's regulatory provisions, UMC 783.14(a)(1) only requires a geologic description of the strata to be disturbed or otherwise affected for areas by surface operations. Nevertheless, Utah's provision would be disapproved to comply with the court's order.

UMC 817.101(b)(1) and 817.102 insofar as these sections do not provide some flexibility for settled fills that have become stabilized and revegetated.

Effect of This Action

Partial approval and partial disapproval means that Utah is not now eligible to assume primary jurisdiction to implement the permanent program pursuant to SMCRA. Utah may submit additions or revisions to its program to correct the disapproved parts on or before December 23, 1980.

If the disapproved parts of the program are not revised within 60 days, the Secretary will take the appropriate steps to promulgate and implement a Federal program for the State of Utah. If the disapproved parts of the program are revised and resubmitted within the 60 day limit, the Secretary will have an additional 60 days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies and to approve, disapprove, or conditionally approve the final Utah program submission.

This approval in part and disapproval in part relates only to the permanent regulatory program under Title V of SMCRA. This decision does not constitute any type of action on the implementation of Title IV of SMCRA, the Abandoned Mine Lands Reclamation Program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Utah may submit a state abandoned mine land (AML) reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until Utah has an approved permanent regulatory program.

Coal development is anticipated on federal lands in the state, and these will be governed by 30 CFR Part 211 until such time as a state regulatory is approved. After the implementation of a state regulatory program, the federal lands program will be governed by 30 CFR Part 740.

The Secretary intends not to promulgate rules in 30 CFR Part 944 until the Utah program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement will be prepared on this disapproval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared.

Dated: October 16, 1980.

Joan M. Davenport,

Acting Secretary of the Interior.

[FR Doc. 80-32883 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Parts 884 and 946

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of scheduled public hearing on the Commonwealth of Virginia abandoned mine lands reclamation plan.

SUMMARY: On September 22, 1980, the Commonwealth of Virginia submitted to OSM its proposed Abandoned Mine Lands Reclamation Plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On September 30, 1980, Notice of Receipt of the Plan and Notice of a Public Hearing was published in the **Federal Register** (45 FR 64604). Review of the Plan has established that the Commonwealth of Virginia provided adequate notice and opportunity for public participation in the development of the Virginia Abandoned Mine Lands Reclamation Plan and that no unresolved controversies exist, and that there is insufficient interest as evidenced by no requests to hold the scheduled hearing.

Therefore the Public Hearing scheduled for October 29, 1980, beginning at 10:00 a.m. in the Conference Room, Department of Conservation and Economic Development, at Powell and River Streets, Big Stone Gap, Virginia, is cancelled.

FOR FURTHER INFORMATION CONTACT: Earl R. Cunningham, Assistant Regional

Director, AML, Office of Surface Mining, 1st Floor, Thomas Hill Building, 950 Kanawha Boulevard, East, Charleston, West Virginia 25301, Telephone: 304/342-8125.

Dated: October 17, 1980.

Walter N. Heine,

Director.

[FR Doc. 80-33187 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

33 CFR Part 207

Navigation Regulations; Operation of Navigation Locks in Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: The Corps of Engineers proposes to amend the regulations with respect to the operating schedule of the Okeechobee Waterway locks, Canaveral lock, Cross Florida Barge Canal locks, locks around the perimeter of Lake Okeechobee and several non-Federal locks in Florida which have changed hours of operations. This change reflects the present operating hours of the locks.

DATE: Comments must be received by November 30, 1980.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, (202) 272-0200

SUPPLEMENTARY INFORMATION: On March 4, 1977, the Corps published a proposed regulation in the **Federal Register** (42 FR 12443), soliciting public comment on the schedule of operating hours for the Port Mayaca Lock, Florida. Subsequently, it was found that the operating hours of other locks in Florida had not been published in the **Federal Register.** To be consistent and to avoid piecemeal actions on the publication of operating schedules for all locks in Florida, the Corps is publishing all lock operating schedules in a single proposal.

The only changes to the operating schedules occur at the Eugene J. Burrell lock, Opopka-Beauclair Lock, Kissimmee River lock, Taylor Creek and Carlson's Landing Dam navigation lock. The remaining schedules are presently in effect at the locks and remain unchanged.

PART 207—NAVIGATION REGULATIONS

Accordingly, the Corps of Engineers proposes to amend 33 CFR Part 207 as set forth below:

1. The following regulations to establish schedules of operating hours at locks in Florida are proposed to be added.

Sec.
207.170e Okeechobee Waterway, navigation lock on Caloosahatchee River at Olga, Florida; use, administration and navigation.
207.170f Okeechobee Waterway, navigation lock on Caloosahatchee River at Ortona, Florida; use, administration and navigation.
207.170g Okeechobee Waterway, navigation lock on Caloosahatchee River at Moore Haven, Florida; use, administration and navigation.
207.170h Okeechobee Waterway, navigation lock (S-308B) on east side of Lake Okeechobee at Port Mayaca, Florida; use, administration and navigation.
207.170i Okeechobee Waterway, navigation lock on St. Lucie Canal at Penny Farms, Florida; use, administration and navigation.
207.170j Lake Okeechobee, navigation lock (S-131) on Fisheating Creek at Lakeport, Florida; use, administration and navigation.
207.170k Lake Okeechobee, navigation lock (S-127) on canal at Buckhead Ridge, Florida; use, administration and navigation.
207.170l Lake Okeechobee, navigation lock (G-36) on Hendry Creek, Florida; use, administration and navigation.
207.170m Lake Okeechobee, navigation lock (S-135) on northeast shore of lake at J & S Park, Florida; use, administration and navigation.
207.170n Lake Okeechobee, navigation lock (S-310) on Industrial Canal at Clewiston, Florida; use, administration and navigation.
207.171c Canaveral lock located on Canaveral Barge Canal near Port Canaveral, Florida; use, administration and navigation.
207.174 Inglis Lock located on the Cross Florida Barge Canal at Inglis, Florida; use, administration and navigation.
207.174a Henry Holland Buckman Lock located on the cross Florida Barge Canal near Palatka, Florida; use, administration and navigation.

§ 207.170e Okeechobee Waterway, navigation lock on Caloosahatchee River at Olga, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, U.S. Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.170f Okeechobee Waterway, navigation lock on Caloosahatchee River at Ortona, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.170g Okeechobee Waterway, navigation lock on Caloosahatchee River at Moore Haven, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.170h Okeechobee Waterway, navigation lock (S-308B) on east side of Lake Okeechobee at Port Mayaca, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.170i Okeechobee Waterway, navigation lock on Lucie Canal at Penny Farms, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.170j Lake Okeechobee, navigation lock (S-131) on Fisheating Creek at Lakeport, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock for passage of vessels during the following hours and periods:

October 1 through April 30—5:30 a.m. to 8:00 p.m.

May 1 through September 30—5:30 a.m. to 9:00 p.m.

(b) The owner of the lock shall place signs, of such size and description as

may be designated by the District Engineer, US Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section. The hours of operation are based on local time.

§ 207.170k Lake Okeechobee, navigation lock (S-127) on canal at Buckhead Ridge, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock for passage of vessels during the following hours and periods:

October 1 through April 30—5:30 a.m. to 8:00 p.m.
May 1 through September 30—5:30 a.m. to 9:00 p.m.

(b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, US Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section. The hours of operation are based on local time.

§ 207.170l Lake Okeechobee, navigation lock (G-36) on Hendry Creek, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock for passage of vessels during the following hours and periods:

October 1 through April 30—5:30 a.m. to 8:00 p.m.
May 1 through September 30—5:30 a.m. to 9:00 p.m.

(b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, US Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section. The hours of operation are based on local time.

§ 207.170m Lake Okeechobee, navigation lock (S-135) on northeast shore of lake at J & S Park, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock for passage of vessels during the following hours and periods:

October 1 through April 30—5:30 a.m. to 8:00 p.m.
May 1 through September 30—5:30 a.m. to 9:00 p.m.

(b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, US Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section. The hours of operation are based on local time.

§ 207.170n Lake Okeechobee, navigation lock (S-310) on Industrial Canal at Clewiston, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock for passage of vessels during the following hours and periods:

October 1 through April 30—5:30 a.m. to 8:00 p.m.
May 1 through September 30—5:30 a.m. to 9:00 p.m.

(b) The owner of the lock shall place signs, of such size and description as may be designated by the District Engineer, US Army Engineer District, Jacksonville, Florida, at each side of this lock indicating the nature of the regulations of this section. The hours of operation are based on local time.

§ 207.171c Canaveral Lock located on Canaveral Barge Canal near Port Canaveral, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

§ 207.174 Inglis Lock located on the Cross Florida Barge Canal at Inglis, Florida; use, administration and navigation.

(a) The lock shall be operated from 8:00 a.m. to 5:00 p.m. on Saturday and Sunday only. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of ther regulations of this section.

§ 207.174a Henry Holland Buckman Lock located on the Cross Florida Barge Canal near Palatka, Florida; use, administration and navigation.

(a) The lock shall be operated from 8:00 a.m. to 5:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, US. Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations of this section.

2. In addition, the following amendments to existing regulations are proposed.

a. Section 207.170a is amended by revising paragraph (a) as follows:

§ 207.170a Eugene J. Burrell Navigation Lock in Haines Creek near Lisbon, Florida; use, administration and navigation.

(a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 7 a.m. to 12 noon and from 1 p.m. to 7 p.m., during the period of February 15 through October 15 each year; and from 7 a.m. to 12 noon and from 1 p.m. to 6 p.m. during the remaining months of the year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels. The hours of operation are based on local time.

* * * * *

b. Section 207.170b is amended by revising paragraph (a) as follows:

§ 207.170b Apopka-Beauclair Navigation Lock in Apopka-Beauclair Canal in Lake County, Florida; use, administration and navigation.

(a) The owner of or agency controlling the lock shall not be requred to operate the navigation lock except from 7:00 a.m. to 12:00 noon, and from 1:00 p.m. to 7:00 p.m. during the period of February 15 through October 15 each year; and from 8:00 a.m. to 12:00 noon, and from 1:00 p.m. to 6:00 p.m., during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels. The hours of operation are based on local time.

* * * * *

c. Section 207.170c is amended by revising paragraph (a) as follows:

§ 207.170c Kissimmee River, navigation locks between Lake Tohopekaliga and Lake Okeechobee, Florida; use, administration and navigation.

(a) The owner of or agency controlling the locks shall be required to open the navigation locks upon demand for passage of vessels during the following hours and periods:

Locks S-61, S-65 and S-65E		
Monday through Friday.	All year	7:00 a.m. to 6:00 p.m.
Saturday and Sunday	March 1 through October 31	5:30 a.m. to 7:30 p.m.
Locks S-65B, S-65C, and S-65D		
Monday through Friday.	All year	7:00 a.m. to 6:00 p.m.
Saturday and Sunday	November 1 through February 28.	5:30 a.m. to 6:30 p.m.
Locks S-65A, S65B, S-65C, and S-65D		
Monday through Friday.	All year	8:00 a.m. to 5:00 p.m.
Saturday and Sunday	March 1 through October 31.	5:30 a.m. to 7:30 p.m.
Do	November 1 through February 28.	5:30 a.m. to 6:30 p.m.

* * * * *

d. Section 207.170d is amended by revising paragraph (a) as follows:

§ 207.170d Taylor Creek, navigation lock (S-193) across the entrance to Taylor Creek at Lake Okeechobee, Okeechobee, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall be required to open the lock upon demand of passage of vessels during the following hours and periods;

October 1 through April 30—5:30 a.m. to 8:00 p.m.
May 1 through September 30—5:30 a.m. to 9:00 p.m.

* * * * *

e. Section 207.175a is amended by revising paragraph (e) as follows:

§ 207.175a Wysong Lock and Dam on the Withlacoochee River, south of Rutland, Florida; use, administration and navigation.

(a) The owner or agency controlling the lock shall not be required to operate the navigation lock except from 7:00 a.m. to 7:00 p.m. during the period of February 15 through October 14 each year; and from 8:00 a.m. to 6:00 p.m. during the remaining months of each year. During the above hours and periods the lock shall be opened upon demand for the passage of vessels. Navigators are advised this is an inflatable dam, and the river is open to vessels 24 hours per day when the dam is deflated.

* * * * *

(40 Stat. 266; 33 U.S.C. 1)

Note.—The Chief of Engineers has determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under EO12044, Improving Government Regulations.

Dated: October 21, 1980.

Forrest T. Gay, III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 80-33282 Filed 10-23-80; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 1642-1]

Proposed Rulemaking: Revision to the Rhode Island State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA received a request from the state of Rhode Island on August 28, 1980, to approve a revision to its State Implementation Plan (SIP). This revision, which EPA is proposing to approve, constitutes a variance from Regulation 8, "Sulfur Content of Fuels," of the Rhode Island Department of Environmental Management (DEM) Rules and Regulations for Prevention, Control and Abatement, and Limitation of Air Pollution. If approved by EPA, this revision would allow an alternative emission reduction option for control of sulfur dioxide in accordance with EPA's controlled trading policy (**Federal Register** Vol. 44, No. 239, Tuesday, December 11, 1979), commonly referred to as the "Bubble Policy." This revision would allow the Narragansett Electric Company to burn 2.2 percent sulfur fuel oil at its electric power generating station on South Street in Providence during such times that it ceases operation or is burning natural gas at its electric power generating station on Manchester Street in Providence. Presently, both stations are burning 1 percent sulfur fuel oil.

DATE: Comments must be received on or before November 24, 1980.

ADDRESSES: Copies of the Rhode Island submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Department of Environmental Management, 75 Davis Street, Room 204, Cannon Building, Providence, Rhode Island 02908.

Comments should be addressed to Harley F. Laing, Chief, Air Branch, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617)223-4448.

SUPPLEMENTARY INFORMATION: On August 28, 1980 the Director of the Rhode Island Department of Environmental Management (DEM) submitted a request to the EPA to approve a revision to the Rhode Island State Implementation Plan (SIP) which would vary the provisions of Regulation 8, "Sulfur Content of Fuels," of the DEM Rules and Regulations for the Prevention, Control and Abatement, and Limitation of Air Pollution. This revision, which EPA is proposing to approve, would allow the Narragansett Electric Company (NEC) to burn fuel oil having a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately 2.2 percent by weight) at its electric power generating station on South Street (the South Street Station) in Providence during such times that it ceases to operate or is burning natural gas at its electric power generating station on Manchester Street (the Manchester Street Station) in Providence. The two stations are located 0.37 kilometers apart from each other. This revision proposes an alternative emission reduction option with the Rhode Island SIP in accordance with the EPA controlled trading policy commonly referred to as "The Bubble Policy" (**Federal Register** Vol. 44, No. 239, Tuesday, December 11, 1979). Both generating stations are located in Air Quality Control Region (AQCR) 120. Providence, Rhode Island is designated as an attainment area for the National Ambient Air Quality Standards (NAAQS) for SO_2.

Under Regulation 8, "Sulfur Content of Fuels," oil burning sources must use a fossil fuel containing 0.55 pounds or less of sulfur per million Btu heat release potential (approximately equivalent to 1 percent sulfur by weight). The requested variance would allow NEC's South Street Station to burn 2.2 percent sulfur fuel oil under certain conditions for one year with the provision that the variance may be continued from year to year under the approving authority of the Rhode Island DEM. Under the Rhode Island Clean Air Act, Title 23, Chapter 23, the director of the DEM has the power to grant a variance to any Air Pollution Control Regulation. Variances may be granted when a source demonstrates that "* * * the enforcement of a Regulation would constitute undue hardship without a corresponding benefit or advantage obtained thereby, provided that such a variance is consistent with the provisions and procedures of the Federal Clean Air Act, 42 U.S.C. 4701 et seq, as amended, and the rules and regulations adopted from time to time pursuant thereto," (Rhode Island Clean Air Act, 23-23-15). Federal approval of such variances requires review by the state and EPA in accordance with procedures for amending the SIP. In this case, the DEM's decision to propose granting a variance to NEC was based upon that company's controlled trading approach for SO_2 emission control demonstrated in accordance with EPA's "Bubble Policy" (**Federal Register** Vol. 44, No. 239, Tuesday, December 11, 1979). At such times when 2.2 percent sulfur fuel is burned at the South Street Station, NEC would burn natural gas or cease operation at the Manchester Street Station. The requested variance would apply only to the South Street

Station during such times that the Manchester Street Station burns natural gas or is not in operation, and at no time may the Manchester Street Station burn any fossil fuel in excess of 1 percent sulfur by weight. The requested variance also includes the following provisions: that NEC will notify the DEM whenever it commences burning 2.2 percent sulfur fuel at South Street Station in conjunction with burning natural gas at Manchester Street Station; that NEC will maintain a minimum 10-day supply of 1 percent (maximum) sulfur fuel oil on hand to be utilized in the event of an air quality alert or due to the unavailability of natural gas; that NEC will, within thirty minutes of notification by DEM, switch to low sulfur fuel oil at the South Street Station should an air quality alert occur; that NEC will immediately cease operation at the South Street Station upon detection and/or notification by DEM that a malfunction resulting in emissions in excess of those allowed by any Air Pollution Control Regulation has occurred, and such problem is to be corrected prior to resuming operation; that NEC shall maintain records of consumption of high sulfur fuel oil (2.2 percent by weight) including times, dates, and durations of burns, number of gallons consumed, purchase date, supplier and total gallons purchased; that NEC or an independent supplier shall obtain permission from the DEM for sale or storage of high sulfur fuel oil for the purpose of this variance before NEC utilizes such fuel oil; and that NEC shall locate and maintain an air quality monitoring station at a site approved by DEM and EPA.

This "multi-plant bubble" approach for sulfur dioxide control at these two facilities results in a net reduction of emissions of 317 pounds per hour (1388.5 tons per year). The NEC expects direct fuel cost savings of 2.7–4 million dollars annually. Further, the expected reduction in foreign imported fuel oil purchased is 50,000 barrels per month (600,000 barrels per year).

Technical support for the proposed revision includes an evaluation of compliance with the NAAQS using EPA approved mathematical modeling. NAAQS are maximum ambient pollutant concentrations which are set to protect public health and welfare. The NAAQS for SO_2 is 80 $\mu g/m^3$ (annual average), 365 $\mu g/m^3$ (24-hour average), and 1300 $\mu g/m^3$ (3-hour average). No analysis to determine Prevention of Significant Deterioration (PSD) increment consumption was necessary because the applicable baseline date has not been triggered in the state of Rhode Island (40 CFR 52.21(b)(14), Federal Register, Vol. 45, No. 154, August 7, 1980). The entire state is designated attainment for SO_2 in accordance with Section 107 of the Clean Air Act.

Mathematical modeling is used to simulate the dispersion of pollutants emitted by sources into the atmosphere. These models can predict ambient pollutant concentrations at pre-selected ground-level locations called receptors. The model used was the CRSTER model developed by EPA. It utilizes source parameters and sequential meteorological data (hour by hour for a year) to determine the annual average, the highest and second highest 24-hour average concentration for the year, and the highest and second highest 3-hour concentration for the year at ground level receptors. The modeling was repeated for five years of meteorological data in accordance with EPA guidelines. A conservative NAAQS analysis involves adding the maximum predicted source impacts to the highest measured ambient background levels in the area, irrespective of the relative location of the maximum source impact and the location of the background monitor, and without consideration of possible source contributions to such background data. In other words, source impacts may be double counted. However, if when using this conservative technique; the NAAQS are shown to be maintained when both sources are operating under the variance, there is no need to perform a more realistic analysis.

For this case, the background ambient concentration values were taken from monitoring data on record at DEM and EPA (collected 1977–1979). The background concentrations for SO_2 considered were 227 $\mu g/m^3$ (second highest 24-hour average), 445 $\mu g/m^3$ (second highest 3-hour average), and 59 $\mu g/m^3$ (highest annual average). The meteorological data used for the modeling analysis were for the years 1970–1974, and were collected at Green Airport, Warwick, Rhode Island. The sums of the predicted maximum source impacts and maximum background concentration for the 3-hour, 24-hour, and annual averaging times are 625 $\mu g/m^3$, 274 $\mu g/m$G23, and 62 $\mu g/m^3$, respectively. Thus the NAAQS have been shown to be protected when the generating stations are operating under the variance.

An analysis was performed in accordance with EPA procedures to determine Good Engineering Practice (GEP) stack height levels for the stacks at the South Street Station and the Manchester Street Station. The South Street Station has two boilers with a combined rated capacity of 1127 million Btu/hour, and the Manchester Street Station has three boilers with a combined rated capacity of 1612 million Btu/hour. The two boilers at the South Street Station exhaust to a single stack. Two boilers at the Manchester Street Station exhaust to a stack at the west end of the station, and the other boiler exhausts to a stack at the east end of the station. The stack at the South Street Station is 325.5 feet high. This exceeds the calculated GEP stack height of 281 feet by 44.5 feet. However, this stack was built in 1955, and under Section 123 of the Clean Air Act, the heights of all stacks, or portions thereof, built prior to December 31, 1970 may exceed GEP and be input into dispersion models. The stacks at the Manchester Street Station are 200 and 201 feet high. These stack heights are 114 and 113 feet below the calculated GEP height of 314 feet. Thus a potential for downwash does exist at the Manchester Street Station. However, this does not affect granting the DEM's request; because under the variance, the Manchester Street Station would burn natural gas and would emit no SO_2.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: October 10, 1980.

Robert C. Thompson,

Acting Regional Administrator, Region 1.

[FR Doc. 80-33182 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-26-M

---

40 CFR Part 81

[A-2-FRL 1642-3]

Designation of Areas for Air Quality Planning Purposes; Section 107 Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to propose Environmental Protection Agency approval of a change to the designation of the attainment status of the Borough of Staten Island in New York City with regard to the secondary national ambient air quality standard for particulate matter. Such designations are required by Section 107(d) of the Clean Air Act and may be revised from time to time at the request of the State. Such a request was received from New York State to redesignate a portion of Staten Island, currently designated non-attainment, to attainment for the secondary standard for particulate matter. The Environmental Protection Agency believes that the existing evidence is insufficient to warrant a designation of attainment and is instead recommending a designation of "cannot be classified."

DATES: Comments must be received by December 23, 1980.

ADDRESSES: All comments should be addressed to: Charles S. Warren, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1105, Region II Office, 26 Federal Plaza, New York, New York 10278

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act, as amended in August 1977, directed each State to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the State. EPA received such designations and promulgated them on March 3, 1978 (43 FR 8962). Subsequently, on January 25, 1979 (44 FR 5119), revisions to the designations for the States administered by the Region II Office of EPA (New York, New Jersey, the Commonwealth of Puerto Rico and the U.S. Virgin Islands) were promulgated.

On September 12, 1980 New York State requested that the west-central portion of the Borough of Staten Island be redesignated with respect to the national ambient air quality standard for particulate matter. In the New Jersey-New York-Connecticut Interstate Air Quality Control Region, the Borough of Staten Island, south of I-278, west of Richmond Avenue and north of Arthur Kill Road as far west as Rossville Avenue, is currently designated non-attainment with respect to the particulate matter secondary standard. This area is proposed by the State to be redesignated as "better than national standards."

The following criteria are used by EPA in determining whether or not to approve a proposed redesignation:

1. No contraventions of any air quality standards are observed during the last consecutive eight calendar quarters, or

2. No contraventions of any air quality standards are observed during the last consecutive four quarters provided there has been a steady and substantial decrease in ambient air quality levels over the last consecutive eight quarters which can be attributed to a significant and quantifiable reduction in emissions.

3. Contraventions of particulate matter are shown to be due to fugitive dust emissions if the monitor is located in a non-industrial rural area.

4. Contravention of particulate matter standards are shown to be due to temporary activity in the vicinity of the monitor.

5. Although monitoring data are preferred, determination of non-attainment boundaries may also be based on air quality modeling.

In the area under consideration the total suspended particulate matter air quality monitor on which the original non-attainment designation was based was situated near the Freshkills landfill. Monitoring was discontinued at this site in January 1978 because it was determined that the data were not representative of the area. EPA believes that contraventions of the standard at this location could be attributed to temporary and ongoing landfill activities, hence exclusion criteria 3 or 4 discussed earlier would apply. In addition, the monitoring site was not a site of population exposure and was not a site to which the public had access. In recognition of these siting problems, the New York City Department of Air Resources (NYCDAR) initiated a monitoring program for particulate matter from mid-1977 to mid-1979 at another site, the PS-26 school, located just outside the landfill site and in the populated area of Travis, Staten Island.

In calendar year 1978, NYCDAR recorded two excursions above the 150 $\mu g/m^3$ secondary standards. One of these (a marginal excursion of 153 $\mu g/m^3$), upon microscopic filter examination, was shown to contain 23 percent, by weight, pollen and decayed vegetable matter; only 7.3 percent of the sample was due to products of combustion.

During its period of operation, the NYCDAR sampling at the PS-26 site showed no continuous history of violations. However, there is no recent air quality data base on which to make a conclusive determination of the attainment status of the area in accordance with criteria 1 or 2 discussed earlier. Reasonable doubt is further introduced since this portion of Staten Island is situated adjacent to the non-attainment areas of northeast New Jersey.

For these reasons, EPA cannot approve New York State's request for redesignation to attainment. Instead, EPA is proposing to redesignate the west-central portion of Staten Island as "cannot be classified." As such, this area will be subject to further study by New York State and EPA to determine its actual attainment status.

Interested persons are invited to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. Comments received by December 23, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 20, 1980.

(Sec. 107, Clean Air Act, as amended)

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 80-33181 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 431

Medicaid Quality Control; Time Requirements for Reviews; Technical Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the current Medicaid Quality Control (MQC) regulations by revising time frames for States to complete reviews and to submit certain reports. The amendments also include technical changes and clarification of certain ambiguities. The purpose of this proposal is to improve Federal and State program management by ensuring timely completion of reviews and reports and to make the regulation more readable.

DATE: Closing date for receipt of comments: December 23, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201 or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21208.

Please refer to File Code BQC-1-P.

Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection approximately two weeks after publication in Room 309-G of the Department's office at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Carlton Stockton, 301-597-1350.

SUPPLEMENTARY INFORMATION:

Background

The Medicaid Quality Control (MQC) program is an important management tool to help State Medicaid agencies monitor and improve the administration of their Medicaid Programs.

The MQC program consists of the following basic elements: verification of the correctness of eligibility determinations, examination to determine whether the State has taken action to recover funds for which third parties are liable, review of the accuracy of State payment of Medicaid claims for active cases, and review of the accuracy of denials and terminations of eligibility.

The MQC program was created because management controls did not keep pace with the growth of the Medicaid program. As a result, large sums of Medicaid funds were lost through payments for medical services to ineligible recipients. To meet the need for better control, the first MQC program required States to review their eligibility determinations to determine the types of errors being made, in order to plan corrective action that would prevent repetition of these errors, and thus reduce the amount of erroneous payments.

In addition to funds being misspent for payments for services to ineligible persons, funds were also being lost due to unrecovered third party liability and claims payment errors. Consequently, the system was expanded in 1978 to require the identification of errors in Third Party Liability (TPL) and Claims Processing (CP) operations. The regulations also revised the procedures for conducting eligibility reviews.

In our experience under the expanded system, we have become aware that certain revisions are needed in the regulations. 42 CFR 431.800 does not contain any specific time requirements for the completion of reviews; by implication, it requires the completion of eligibility and payment reviews by the date a 6-month summary report is due, May 31 and November 30 of each year. The MQC manual, however, contains time requirements for the completion of certain types of reviews.

The proposed regulations would revise the time requirements for the completion of eligibility reviews and mandate time frames for the completion of negative case action and payment reviews.

In addition, the proposed regulations would revise the time requirements in the existing regulations and manual for the submittal of some reports, would modify the content and timing of another report, and would incorporate additional reporting requirements from the MQC manual and an Action Transmittal.

We are proposing these time requirements in order to provide a better flow of information, and are proposing to incorporate these requirements in the regulations in order to emphasize their importance. Some States tend to delay reviews until the end of the reporting period, which results in uneven workloads and leads to ineffective management.

The Aid to Families with Dependent Children (AFDC) program also has a quality control system basically similar to Medicaid's. Because of the close ties between the programs, a companion proposed AFDC regulation is being published today which, if adopted, would also impose review completion requirements in that program. Their review requirements for certain categories of cases do not coincide with ours because of differing program and management needs.

We are also proposing to make technical changes to reorganize the regulations, expand the authority provision, updatae cross-reference citations, incorporate some provisions from the MQC manual, and make certain technical wording changes. These technical changes are intended to clarify the requirements of the MQC program, and not to revise any substantive requirements.

Regulation Provisions

Review Completion Requirements

1. *Eligibility reviews.*—This proposal would modify the time requirements for eligibility reviews that are presently contained in the MQC manual. The manual, at section 3131, presently requires States to complete Medicaid reviews of AFDC cases within 4 months after the end of the review month, reviews of those Supplementary Security Income (SSI) cases where the State agency uses SSI-Quality Assurance (SSI-QA) data within 6 months after the end of the review month, and medical assistance only case reviews and SSI case reviews where the State does not use SSI-QA data within 3 months after the end of the review month. The review month means the month for which the case is selected and reviewed.

We are proposing that States complete eligibility quality control reviews on a regular and consistent basis in order to provide a constant flow of data to the State agency and HCFA. Since MQC eligibility reviews of certain categories of cases depend upon data from the AFDC and SSI programs, the Medicaid time requirements for completion of these cases should be based on the date the Medicaid agency receives the data from these programs rather than on the review month. Therefore, as explained below, we are proposing that agencies complete the reviews for AFDC and SSI cases within a specified period after the receipt of the data from those programs. We also propose a shortened completion period for most other cases in the active sample. However, the proposal would

provide States with an additional period to complete a small percentage of reviews to compensate for exceedingly difficult cases in either category.

In order to provide a constant flow of data to the State agency and HCFA, we also propose to add to the existing program a time requirement for the completion of negative case action reviews. There are no time requirements for the completion of these reviews in the present regulations or MQC manual.

Specifically, if the proposed regulations are adopted, Medicaid agencies will be required to complete eligibility reviews for cases in the active case sample according to the following schedule (§ 431.800(e)(1)):

a. For cases for which eligibility information is supplied by the AFDC and SSI Quality Control programs, the agency will have to complete the review for 98 percent of these cases within 30 days of receipt of that information, and the remaining 2 percent within the following 30 days.

b. The agency will have to complete the review for 98 percent of all other cases in the sample within 75 days after the end of the review month, and the remaining 2 percent within the following 30 days.

2. *Negative case action reviews.*—If the proposed regulations are adopted, Medicaid agencies will be required to complete the review for 98 percent of the cases in the negative case action sample within 75 days, and the remaining 2 percent within the following 30 days (§ 431.800(e)(2)). Negative case actions are actions to deny an application for assistance or to otherwise dispose of that application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or to terminate assistance.

The initial 98 percent completion rate is also in the companion proposed AFDC regulation, and was developed jointly with the AFDC staff. We are not proposing that States complete 100 percent of their reviews within the initial time frame because the information needed to complete a case may not be available for a few complicated cases within the 30-day or 75-day period. We do not want the States to feel they must speed up decisions on cases without complete information. We also do not want them automatically placed in a position of noncompliance.

We discussed using a 95 percent completion rate, but believe that if most States start processing their cases at the beginning of the month following the review month, or, for cases where the AFDC and SSI Quality Control programs supply information, as soon as those programs provide that information, they should have sufficient time to complete 98 percent of these cases. For this reason, we think the 98 percent figure is a reasonable goal the States can achieve. We also think that States should be able to complete the remaining 2 percent of the cases within the following 30 days, without undue difficulty.

3. *Alternate plans for completing reviews.*—We recognize that circumstances might arise that would justify a State's failure to complete reviews in the time frames we are proposing. The proposed regulations would, therefore, allow for these circumstances by permitting States to submit, in writing, alternate plans for the completion of eligibility reviews and negative case action reviews to the Regional Administrator under two types of circumstances. These circumstances are referred to as "anticipated events" and "unanticipated events" for purposes of these regulations.

Under the proposed regulations, the Regional Administrator would have discretionary approval of the alternate plan, subject to review by the Administrator. The Regional Administrator would also be required to approve the alternate plan before States would be permitted to operate under the revised time frames. The reasons for these two requirements are to indicate the importance we place upon the timely completion of reviews and the flow of information on a regular and consistent basis, and to emphasize our belief that only truly compelling circumstances would justify a State's failure to complete the reviews in the proposed time frames.

(a) *Alternate plan for completing reviews that is submitted because of anticipated events.*—States would be allowed to submit an alternate plan for completing reviews because of "anticipated" events that adversely affect their ability to complete reviews in the time frames we are proposing.

The term "anticipated" events, for purposes of the proposed regulations, refers only to the following two conditions:

(1) The State's quality control sample population is dispersed over such great distances that it would be cost-prohibitive to conduct field interviews of the sample cases in the time frames we are proposing; and

(2) The State's usual weather and geographic conditions make significant numbers of the State's sample population inaccessible to field contact during certain times of the year.

We believe that these are the only two circumstances that a State could anticipate in advance that would justify inability to complete the reviews in the proposed time frames; but we welcome comments from States or individuals who can demonstrate a need for a more or less inclusive category.

Some types of alternate plans the Regional Administrator might approve because of "anticipated events" are those that allow the State to complete a lower percentage of eligibility reviews and negative case action reviews during the first 30 or 75 days following the end of the review month, and those that extend the time period required for a State to complete all of its cases following the end of the review month. For example, the State could request a lower completion rate of its cases during the first 30 or 75 days following the end of the review month than the 90 percent figure specified in the proposed regulations. Also, depending upon the particular circumstances, the State could request revised time frames for completing reviews for only a few months during the review month, or for the entire review period. However, because of the need to complete reviews on a regular and consistent basis, the proposed regulations would require that alternate plans provide for the least deviation from the proposed time frames that the State considers feasible.

In addition, under the proposed regulations, if an alternate plan is approved because of "anticipated events", the State would still be required to meet the time requirements for completing the 6-month summary report. We believe that the due date for this report should not be deferred for several reasons. First, the State, because of the permanent and recurring nature of these anticipated events, can plan for them. Second, and most important, the 6-month summary report provides the data needed for the program to take corrective action to reduce error rates.

States would not be required to submit a new alternate completion plan for these types of events each reporting period. Since the events that constitute "anticipated events" are either permanent or recurring in nature, these plans would not be time-limited; that is, they would remain in effect until the Regional Administrator notifies the State to the contrary. States, however, could submit a new alternate completion plan if they believed a new one is warranted by the particular circumstances in that individual situation.

To further emphasize the importance we place upon the completion of reviews on a regular and consistent basis, the proposed regulations place the burden upon the States to demonstrate

that "anticipated events" prevent them from completing reviews on time. States would, therefore, have to submit the following documentation to the Regional Administrator with their request for an alternate plan: (1) a description of each event or events; (2) reasons the event or events prevent the agency from completing reviews on time; and (3) a discussion of other alternate completion plans considered, and reasons for their rejection as unfeasible. The Regional Administrator would be allowed to require any additional documentation that he or she thought was necessary to evaluate the State's request.

b. *Alternate plans for completing reviews that are submitted because of unanticipated events.*—We also recognize that, in addition to the circumstances decribed above, "unanticipated events" might arise that would justify, on a temporary basis, a State's inability to complete reviews in the time frames we are proposing.

The term "unanticipated events" for purposes of the proposed regulations, refers to events that are not easily predictable. Some examples of these types of events could include natural disasters such as floods, earthquakes, tornadoes, hurricanes, as well as conditions such as fires, employee strikes, and computer malfunctions. This list is not all-inclusive because, unlike "anticipated events" which are permanent or recurring in nature, we do not believe it is possible to describe all types of unanticipated events that would justify a State's deviation from the proposed time frames.

An alternate completion plan for these types of events would allow States to revise the review completion schedule in the same manner as with anticipated events. This plan, however, would differ in two respects. First, since States, by definition, are unable to plan for these events, we recognize that, in some instances, these events could provide justification for States to delay the submission of their 6-month summary report for a short time past the due date specified in the reporting sections of the proposed regulations. However, the Regional Administrator would approve only those alternate plans that provide the minimum deviation from the regular time frames that is necessary, and we would expect that States would request a delay of the due date for the 6-month summary report only in the most compelling circumstances.

Second, since the event that necessitates the State's submitting an alternate plan under this section is not one that is permanent or occurs on a regular basis, the plan would be time-limited. The proposed regulation would require only that States submit a written request describing the occurrence, the period the new plan will be in effect, the revised completion schedule for reviews and, if absolutely necessary, the 6-month summary report. This is the only documentation that would be required because the State might need an immediate decision on the new plan in order to reallocate its resources due to the unplanned event.

However, the Regional Administrator could request additional documentation that he or she feels necessary to evaluate the State's report.

4. *Payment reviews.*—The proposed regulations would also require States to complete payment reviews no later than the end of the seventh month after the end of each review month (§ 431.800(h)). The purpose of these reviews is to identify TPL errors, CP errors, and the dollar amount of erroneous payments resulting from eligibility, TPL, and CP errors. The time requirement for completing payment reviews is presently implied in the MQC manual at Chapter 3100, Exhibit 3100–2. This proposed change would clearly mandate it.

We are not proposing the same time frame requirements for payment reviews that are being proposed for the other reviews. Payment reviews are processed in large measure in the State agency or payment center, and require little documentation.

For those few cases where documentation is needed, the information needed to complete the reviews is located within that facility, and thus is readily available. This is especially true of payment centers that are computerized.

The time frames for these reviews also could not be the same as for other reviews because the due dates for the reviews would not coincide with the due dates for reports.

We do not think these time frames for reviews will create a burden on the States; we are however, inviting comments on the requirements. The comments should contain specific figures on any increased burden that the States believe may result from the proposal.

Reporting Requirements

The proposed regulations would require the State to forward to the Regional Administrator on a weekly basis individual case review findings (disposition list on all cases or completion of the required review schedule) for all eligibility reviews, payment reviews, and negative case action reviews that were completed or dropped the previous week (§ 432.800(i)(3)). This requirement would replace a reporting requirement in the present regulations and MQC manual that requires States to identify on a weekly basis those cases for which the State has completed reviews (§ 431.800(e)(1)).

The purpose of this requirement is to enable the Department to monitor the progress of State reviews and State findings throughout the six-month review period. In addition, this requirement would enable Federal reviewers to perform re-reviews in a more timely manner. It is our belief that these reporting requirements would thereby result in more efficient management of the program.

The proposed regulations would also incorporate two provisions that are included in the MQC manual but not in current regulations. These are: (1) negative case action error summaries are to be submitted within 4 months after the review month (by January 31, for the preceding April–September sampling period and by July 31, for the preceding October–March sampling period) (§ 431.800(i)(5)); and (2) an option which allows States to submit their 6-month summary for active cases in the form of edited raw date instead of completing the full report (§ 431.800(i)(4)). Those States choosing to submit edited raw data would be required to supply them in accordance with the requirements and instructions issued by HCFA in Section 4000 and Appendices A and B of the MQC manual, and the following Action Transmittals:

HCFA–AT–79–103, November 21, 1978;
HCFA–AT–79–25, March 13, 1979;
HCFA–AT–79–44, May 18, 1979.

The requirement that the States submit negative case action error summaries is incorporated from the MQC manual, Quality Control of Negative Case Actions in AFDC, Adult and Medicaid programs, at pages 5 and 6, with the time frame changes noted above.

In addition, we are incorporating from the MQC manual at 2400, the requirement that States submit descriptions of their sampling plans for active cases and negative case actions no later than 60 days prior to the start of each six-month sampling period.

Finally, we are incorporating from HCFA–AT–79–16, dated February 15, 1979, the requirement that States submit monthly written lists of active cases and negative case actions selected for review (§ 431.800(i)(2)).

These provisions would supply data that we believe will be useful in

monitoring State operation of the Medicaid program.

We wish to note that the reports specified in the regulations would not represent an all-inclusive list, but rather those major ongoing reports that are currently required. As in the current regulations, the proposed regulations also would provide for submittal of other data and reports at the Administrator's request (§ 431.800(i)(6)). HEW presently requires States to submit two additional reports. These reports are a telephone report of progress in completing reviews (section 3133 of the MQC manual), and a State affirmation letter (Action Transmittal HCFA-AT-79-27, March 14, 1979).

Technical Amendments

As noted above, the proposed regulations would reorganize the existing regulations and would make a number of editorial changes. It would also expand the statutory authority cited in § 431.800(a), to include sec. 1902(a)(6) of the Social Security Act (reporting requirement) as well as sec. 1902(a)(4) (proper and efficient administration).

The proposed regulations would also: (1) revise the definitions for claims processing error, negative case action, and third party liability (§ 431.800(b)); (2) reorganize and expand the basic program elements section (§ 431.800(d), (e), (f), (g), and (h)); and (3) clarify the requirement that States identify negative case actions and conduct reviews (§ 431.800(e)(2)). These proposed changes would make the regulations easier to read and are not intended to have any substantive effect. We invite comments particularly on the changes in definitions.

The current regulations specify that States must meet requirements specified in the MQC manuals "issued by HCFA". The proposed regulations would delete the quoted words in order to clarify that the Medicaid Quality Control manuals include the Quality Control of Negative Case Actions in AFDC, Adult and Medicaid Programs Manual (§ 431.800(d)(1)).

In addition, the regulations would incorporate from the MQC manual a requirement that the State agency identify the dollar amount of under- and overstated liability as as part of the eligibility review (431.800(e)(1) and MQC manual paragraph 3340).

The proposed regulations would also remove § 431.800(h), protection of recipient rights, from the MQC regulations, because it repeats a requirement that is already in regulations (42 CFR 435.902). We wish to emphasize, however, that removal of this provision from the regulations does not affect the requirement and that it would still apply to MQC reviews.

We believe these regulations, if adopted, will assist in our efforts to control program misuse and management inefficiency because they will provide for more rapid and routine completion of MQC reviews, and for more timely availability of review data at the Federal and State levels. Thus, they will assist in the proper and efficient administration of the overall Medicaid program.

42 CFR 431.800 is revised to read as follows:

Subpart P—Quality Control

§ 431.800 Medicaid quality control (MQC) system.

(a) *Basis and purpose.* (1) This section establishes State plan requirements for a Medicaid quality control system designed to reduce erroneous expenditures by monitoring eligibility determinations, third-party liability activities, and claims processing.

(2) This section is authorized by sec. 1902(a)(4) of the Act, which provides for State plan requirements necessary for the proper and efficient administration of the Medicaid program, and sec. 1902(a)(6), which requires States to make reports that the Secretary mandates.

(b) *Definitions.* For purposes of this section—

"Active case" means an individual or family determined to be currently eligible for Medicaid.

"Claims processing error" means that the State has claimed FFP for a payment—

(1) For a service not authorized under the State plan;

(2) To a provider not certified for participation in the Medicaid program;

(3) For a service already paid for by Medicaid; or

(4) In an amount above the allowable reimbursement level for that service.

"Eligibility error" means that Medicaid coverage has been certified or payment has been made for a recipient under review who—

(1) Was ineligible when certified or when he received services under the State's plan; or

(2) Had not met recipient liability requirements when certified eligible for Medicaid, that is, he had not incurred medical expenses equal to the amount of his excess income over the State's financial eligibility level.

"Negative case action" means an action to deny an application for assistance or to otherwise dispose of that application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or to terminate assistance.

"State agency" or "agency" means either the State Medicaid agency, or a State agency that is responsible for determining eligibility for Medicaid.

"Third-party liability error" means that the State has claimed FFP for a payment for a medical service even though—

(1) All or part of the medical services should have been paid for by a third party; and

(2) The State failed to meet the requirements of § 433.135 of Part 433, Subpart D of this subchapter for considering third party liability.

(c) *State plan requirements.* A State plan must provide for operating a Medicaid Quality Control (MQC) system that meets the requirements of paragraphs (d) through (i) of this section.

(d) *Basic elements of MQC system.* The agency must—

(1) Operate the MQC system in accordance with the policies, sampling methodology, review procedures, and reporting forms and requirements specified in Medicaid quality control manuals;

(2) For each month, select a sample of active cases and a sample of negative case actions;

(3) Perform eligibility, negative case action and payment reviews as specified in paragraphs (e) and (f) of this section; and

(4) Use 6-month sampling periods, from April through September and from October through March.

(e) *Eligibility review and review of negative case actions.* Except as provided in paragraphs (f) and (g) of this section—

(1) The agency must review each case selected in the active case sample to identify eligibility errors and the dollar amount of under- and overstated liability, and must complete the review within the following time periods:

(i) For cases for which eligibility information is supplied by the AFDC and SSI Quality Control programs, the agency must complete the review for 98 percent of these cases within 30 days of receipt of that information, and for the remaining 2 percent within the following 30 days.

(ii) The agency must complete the review for 98 percent of all other cases in the sample within 75 days after the end of the review month, and for the remaining 2 percent within the following 30 days.

(2) The agency must review each case selected in the negative case action sample to determine whether the reason given for the action was correct, and must complete the review for 98 percent

of those cases within 75 days after the end of the review month, and the remaining 2 percent within the following 30 days.

(3) In order to verify eligibility information for active cases and negative case actions, the agency must conduct field investigations, including—

(i) Personal interviews for each case in the active case sample; and

(ii) Personal interviews for cases in the negative case action sample, to the extent necessary to verify whether the reason given for the action is correct.

(f) *Alternate completion plans for anticipated events.*

(1) A State agency unable to meet the requirements specified in § 431.800(e) (1) and (2) because of anticipated events may submit an alternate plan for completing the reviews to the HCFA Regional Administrator, who has discretionary approval of the plan.

(2) The agency must comply with the time requirements specified in § 431.800(e) (1) and (2) of this section until the Regional Administrator approves the alternate plan for completing reviews.

(3) Even if an alternate plan is approved, the agency must submit the 6-month summary report by the dates specified in paragraphs (i) (4) and (5) of this section, and must complete the review of all of its cases in sufficient time to submit the 6-month summary report.

(4) Anticipated events, for purposes of this section, refer only to the following two conditions:

(i) The State's quality control sample population is dispersed over such great distances that it would be cost-prohibitive to conduct field interviews of the sample cases in the specified time frames; and

(ii) The State's usual weather and geographic conditions make significant numbers of the State's sample population inaccessible to field contact during certain times of the year.

(5) The agency must submit requests for approval of alternate plans for completing reviews in writing to the Regional Administrator. These requests must include—

(i) A description of any anticipated event (or events) that the agency believes would justify a revised schedule for completing reviews;

(ii) The reasons the event (or events) prevents the agency from completing the reviews on time;

(iii) A discussion of other alternate completion plans considered, and reasons why the agency does not consider these other alternate plans acceptable; and

(iv) The agency's proposed revised schedule for completing reviews.

(6) The agency must also submit any additional documentation that the Regional Administrator may request.

(7) If the Regional Administrator approves the agency's plan for completing reviews, the plan remains in effect until the Regional Administrator notifies the agency to the contrary.

(g) *Alternate completion plan for unanticipated events.*

(1) An agency unable to meet the requirements specified in § 431.800(e) (1) and (2) of this section because of unanticipated events may submit an alternate plan for completing the reviews to the HCFA Regional Administrator, who has discretionary approval of the plan.

(2) The agency must comply with the time requirements specified in § 431.800(e) (1) and (2) of this section until the Regional Administrator approves the alternate plan for completing reviews.

(3) An approved alternate plan may provide for the agency to submit the 6-month summary report at a later date than the one specified in paragraphs (i) (4) and (5).

(4) Examples of unanticipated events, for purposes of this section are:

(i) Natural disasters such as floods, tornadoes, hurricanes, snowstorms, earthquakes;

(ii) Other conditions such as fires and labor disputes, and computer malfunctions.

(5) The agency must submit requests for approval of alternate plans for completing reviews in writing to the Regional Administrator. These requests must include—

(i) A description of the unanticipated event (or events) that the agency believes would justify a revised schedule for completing reviews;

(ii) The time period the new plan will be in effect; and

(iii) The agency's proposed revised schedule for completing reviews and, if necessary, for completing the 6-month summary report.

(6) The agency must also submit any additional documentation that the Regional Administrator may request.

(7) If the Regional Administrator approves the alternate plan for completing reviews, the plan remains in effect until the Regional Administrator notifies the agency to the contrary.

(h) *Payment review.*

(1) No earlier than the beginning of the sixth month after the end of the review month, the agency must begin to review all claims paid on behalf of active cases for services received during the review month and paid in that month or in the succeeding 4 months. This review must—

(i) Identify third party liability errors and claims processing errors; and

(ii) Identify the dollar amount of erroneous payments resulting from eligibility, third-party liability and claims processing errors.

(2) The agency must complete payment reviews by the end of the seventh month after the end of the review month.

(i) The agency must submit the following reports and materials to the Regional Administrator, in the form specified by HCFA, and within the following time periods:

(1) A description of the State's sampling plan for active cases and negative case actions, to be submitted no later than 60 days before the start of each 6-month sampling period.

(2) Monthly written lists that identify active cases and negative case actions selected for that month, to be submitted immediately after the sample selection.

(3) Weekly reports that supply the individual case review findings for all eligibility reviews, payment reviews and negative case action reviews that were completed or dropped the previous week.

(4) Unless the Regional Administrator approves an alternate plan that provides for a later due date under paragraph (g)(3) of this section, summary reports, or edited raw data needed to complete the reports, on eligibility and payment error findings for all active cases in the 6-month sample—

(i) By May 31 of each year for the preceding April-September sampling period;

(ii) By November 30 of each year for the preceding October-March sampling period.

(5) Unless the Regional Administrator approves an alternate plan that provides for a later due date under paragraph (g)(3) of this section, summary reports on negative case action errors for all cases in the 6-month sample—

(i) By January 31 for the preceding April-September sampling period; and

(ii) By July 31 for the preceding October-March sampling period; and

(6) Other data and reports that the Administrator requests.

(j) *Access to records.* The agency, upon request, must provide HHS staff with access to all records pertaining to its MQC reviews to which the State has access.

(k) *Corrective action.* The agency must—

(1) Take action to correct any eligibility, third-party liability, claims processing or negative case action errors found in the sample cases;

(2) Take administrative action to prevent or reduce the incidence of those errors; and

(3) By July 31 each year, submit to the Administrator a report on its error analysis and a corrective action plan.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302)).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: October 10, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: October 14, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-33130 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-35-M

Social Security Administration

45 CFR Part 205

Public Assistance Programs; Quality Control System Review Completion Requirements

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: This proposal amends the rules for the quality control (QC) review of sample cases under the Aid to Families with Dependent Children (AFDC) and adult assistance programs. These proposed rules revise the time frames for the States to complete their quality control reviews and to submit their findings and reports to the Social Security Administration (SSA). The purpose of this proposal is to improve Federal and State program management by providing for the timely completion of reviews and reports.

We have prepared these regulations in coordination with the Health Care Financing Administration (HCFA). They are generally consistent with the Medicaid-QC review and reporting requirements that are contained in HCFA's companion proposed rule that is also being published today. However, there are some differences, as explained below, which are due to differences in program needs and requirements.

DATE: Comments must be received on or before December 23, 1980.

ADDRESS: Written comments may be submitted to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, North Building, Room 1169, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Sean Hurley, Division of AFDC Quality Control, 330 C Street, S.W., Washington, D.C. 20201, (202) 245-8999.

SUPPLEMENTARY INFORMATION:

Background

These regulations make changes in the quality control (QC) system for the State administered, Federally aided financial assistance programs that are authorized by titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act. The quality control system is a management tool for monitoring the spending of public assistance funds under these titles. This monitoring is accomplished by a continuous review of a statistically valid and reliable sample of cases to:

(1) Determine the extent to which those persons receiving assistance are eligible, and if eligible, are receiving the right amount of assistance,

(2) Determine the correctness of actions to terminate or deny assistance,

(3) Reduce or eliminate the incidence of eligibility or payment errors and incorrect denials or terminations.

The States conduct QC reviews of AFDC and adult assistance sample cases for a 6-month sample period. The States select the cases for QC review although SSA specifies how many cases each State must review and report on for each 6-month sample period. States select their review cases for each month of the 6-month sample period with an equal number of cases being selected for each month.

The current regulations only require States to complete their individual case reviews for each month by no later than 60 days after the 6-month sample period ends. The States have the latitude of completing their individual review findings for a month at any time within the 6-month sample period and the succeeding 60 days. The current regulations also require the States to forward their 6-month summary data report to SSA by no later than 60 days after the 6-month sample period ends.

Our experience in administering the QC system demonstrates the necessity for requiring States to complete their individual reviews on a consistent basis. Absent any regulatory requirement to establish a regular flow of review data to SSA, States have not completed their individual reviews for a sample month according to a consistent schedule. Furthermore, some States delay completing and reporting their reviews for all months of the sample period until the end of the reporting period. This inconsistent flow of review data from the States to SSA causes uneven workloads for SSA. This hinders SSA's efforts to identify and correct the problems that arise, to determine if funds are being lost, and to determine the error rates.

We propose to modify the regulations by specifying new time limits and completion rate requirements for States and by requiring the weekly submission of review data to SSA. We believe that amending the regulations is required because all administrative measures to ensure the timely reporting of review data have been unsuccessful.

These added requirements should not increase the States' responsibilities. The States' total workload of QC reviews is not increased since the regulatory change only spaces the completing and the reporting of reviews more evenly throughout the review period. We believe that these new requirements will ensure that reviews are not delayed unnecessarily and will permit better management of the quality control system at both the Federal and State levels.

The Medicaid program has a similar quality control system. Because of the close ties between the two programs, the companion HCFA proposed rule, which imposes new review and reporting requirements for Medicaid-QC reviews, is being simultaneously published with the SSA proposed rule. The HFCA and SSA regulations have many identical provisions but also have many significant differences. We will identify throughout the preamble any major provisions in the parallel HFCA regulations that may differ from the SSA regulations.

Sample Completion Requirements

The proposed rules will ensure that the States will complete their individual reviews on a timely basis by—

1. Assigning specific dates for States to complete their individual sample reviews for a month, and

2. Specifying the percentage of individual case reviews that States must complete by such specified dates.

The dates on which States will complete and report their individual reviews will vary depending on the sample month. For each of the first five sample months of the 6-month sample period, States will be required to complete reviews on at least 98 percent of the cases required to be sampled in that month, within 75 days after the end

of the month. The States will complete reviews for the remaining 2 percent of the month's sample cases within 105 days after the end of the month. For the 6th month of the 6-month sample period, States will be required to complete reviews on 100 percent of the sample cases within 75 days after the end of the month. Also, States will be required to submit their 6-month summary data report within 75 days after the end of the 6-month sample period. For both the 6th sample month and the 6-month summary data report, this represents a 15-day extension over the reporting date in the current regulations.

The companion HCFA regulation also specifies a 98 percent completion rate for Medicaid-QC reviews (this figure was jointly agreed to by SSA and HCFA). SSA and HCFA jointly decided against requiring, as a completion rate, a 100 percent completion rate for reviews within the 75 day period since States may find it impossible to complete reivews for some of their complicated cases within that period of time. We wanted to avoid placing States in the position of either making a decision in a case within 75 days without sufficient supporting evidence or not making a decision in a case within 75 days and thus being in noncompliance with the regulations. SSA and HCFA also considered and rejected the idea of a 95 percent completion rate for the sample reviews. We rejected this option because we felt there should be sufficient time for States to meet the 98 percent completion goal if States start promptly processing their individual reviews. We believe that the projected completion schedule of 98 percent of reviews within 75 days and the remaining 2 percent within 105 days can be complied with by most States without undue problems.

However, the proposed SSA and proposed HCFA regulations do differ in a number of respects. The SSA regulations provides for a 100 percent case completion within 75 days for reviews of sample cases selected in the 6th month of a 6-month sample period. The HCFA regulations do not differentiate between the first 5 months and the 6th month. The reason for this difference is that AFDC quality control has an earlier due date for its reports on the sample period findings. In addition, the HCFA regulations provide different completion requirements for their payment and eligibility reviews. The SSA regulations do not because payment and eligibility reviews are the same under AFDC. Medicaid also sets different time limits for certain categories of their eligibility reviews while AFDC does not. Because the two QC system's have different requirements for the types of reviews to be conducted and different due dates for preparing reports, the sample review completion requirements under the 2 programs cannot completely correspond.

Weekly Reporting of Reviews by States

The proposed SSA regulation also provides for the weekly submission of completed reviews to SSA. States will be required to complete reviews within the 75-day and 105-day time frames (or other time frames if required) but will submit the case data to SSA in the week the case is completed. This provision allows SSA to monitor the States' progress with their monthly sample reviews and keep abreast with the ongoing review findings. Also, this provision allows SSA to conduct more timely Federal re-reviews.

Alternative Proposal for Completing Monthly Reviews

a. *Ongoing Alternate Completion Schedule—Anticipated Events.* If permanent or recurring circumstances within a State as described below make it difficult for that State to meet the completion rate requirements, it may request that the Commissioner approve an alternate completion schedule. Under such an alternate completion schedule, the completion rate percentage and completion date requirements that apply to reviews for the first 5 months of the 6-month sample period may be changed. If an alternate completion schedule is approved, a State must meet the completion percentages and time frames specified in its alternate schedule instead of those specified in the proposed regulations. However, the requirement that a State complete and submit the findings for 100 percent of its sample cases and its summary report by 75 days after the 6th month of the 6-month sampling period may not be changed.

The Commissioner may approve an ongoing alternate completion schedule under the following conditions:

1. The State's QC sample population is dispersed over such great distances that conducting field interviews for the required number of sample cases within the 75-day time period is cost prohibitive; or

2. The State's usual weather conditions or geographic conditions make significant numbers of the State's sample population inaccessible to field contact during certain times of the year.

The State requesting an alternate schedule must offer convincing evidence and supporting data as to why it should be approved. Any alternate schedule submitted must describe the reason why the State is prevented from complying with the completion rate percentages. Justification would also include the alternative plans that were considered and why they were not feasible.

b. *Temporary Alternate Completion Schedule—Unanticipated Events.* We recognize that unanticipated events beyond the State's control may occur during a review period and may temporarily affect the State's ability to meet the sample completion requirements. These unanticipated events can include, but are not limited to, natural disasters such as floods, earthquakes, snowstorms, as well as other conditions such as labor disputes, etc. Thus, we are permitting a State to request an alternate schedule for all 6 months of the sample period as the result of the occurrence of an unanticipated event during the sample period. The State must submit its request in writing explaining the nature of the event, and the reasons why it is unable to meet the requirements and for how long the temporary alternate completion schedule is to remain in effect. Under these circumstances the Commissioner may approve a change in the date by which all findings and the summary report must be submitted as well as in the completion rate percentages and completion date requirements.

c. *Implementation of an Alternative Schedule.* A State which has submitted an alternate schedule may not implement the schedule until it is approved by the Commissioner. Until approved by the Commissioner, the State must adhere to the completion rates specified in these regulations.

Form Reference

The current regulations specify by number the forms that are required to be completed and submitted. The proposed regulations delete the references to the form numbers to eliminate the need to change the regulations when we change the form.

Review Findings

These regulations define the term "review findings". This is being done to identify the information to be reported to SSA.

Anticipated Results

These regulations, by providing for more rapid availability of quality control data, will improve our efforts to control program misuse and management inefficiency. Timely data on payment errors will help State and Federal administrators in determining where funds are being lost and in taking action

to correct problems identified in the review process. Imposing a specific time period for completing reviews will also facilitate analysis of error rate trends before final sample period error rates are available.

The proposed regulations are to be issued under authority of section 1102 of the Social Security Act, as amended, 49 Stat. 647 as amended, 42 U.S.C. 1302.

(Catalog of Federal Domestic Assistance Programs No. 13808 Public Assistance Maintenance Assistance (State Aid))

Dated: April 11, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: October 14, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Chapter II, Title 45 of the Code of Federal Regulations, is amended as set forth below:

Section 205.40 is amended by adding new paragraphs (a)(10) and (b)(3) and by revising paragraphs (B)(2)(ii), (b)(2)(iii), and (b)(2)(vi) to read as follows:

§ 205.40 Quality control system.

(a) * * *

(10) *"Review findings"* means a determination as to the payment and eligibility status of active cases and the correctness of negative case actions. Review findings include: the determination that a payment or action is correct, a payment or action is incorrect, no determination can be made or the case is not an appropriate sample case; sample case characteristics; the nature of the errors; the responsibility for the errors; and at what point in the eligibility determination process the error occurred. For active cases the review findings also include the amount of the assistance payment and, where a payment error exists, whether the error was an overpayment, underpayment, or payment to ineligible persons.

* * * * *

(b) * * *

(2) * * *

(ii) On a weekly basis, review findings from sample cases completed in that week. Each reviewed case's findings shall be submitted to the Department on the prescribed form. The State agency shall complete, within 75 days after the end of each of the first five sample months of the 6-month sample period, the reviews of at least 98 percent of the active and negative cases required to be sampled in that month. The remaining 2 percent of the required sample shall be completed within the following 30 days. Additionally, the State agency shall complete, within 75 days after the end of the 6th sample month of the 6-month sample period, the reviews of 100 percent of the active and negative cases required to be sampled in that month. (See paragraph (b)(3) of this section for alternative sample completion plan.).

(iii) Within 75 days after the end of the 6-month sample period, the 6-month statistical summary data reports used to compute State error rates.

* * * * *

(vi) Summary data on sample case characteristics, the nature of the errors, the responsibility for the errors, and at what point in the eligibility determination process the error occurred, at the same time the corrective action plan is submitted.

(3) The State agency may submit an alternate completion schedule for the Commissioner's approval if the State is unable to meet the requirements of paragraph (b)(2)(ii) of this section either as a result of circumstances of a permanent or recurring nature or as the result of the occurrence of an unforseen event during the sample period. Until the Commissioner approves an alternate completion plan, the State must continue to comply with the requirements of paragraph (b)(2)(ii) of this section.

(i) *Ongoing alternate completion schedule—anticipated events.* The Commissioner may approve an alternate completion schedule for the first five months of the 6-month sample period where: The State's sample population is dispersed over such great distances that conducting the required number of field interviews needed to meet the requirements of paragraph (b)(2)(ii) of this section is cost prohibitive; or the State's usual weather conditions or geographic conditions make significant numbers of the sample population inaccessible or difficult to contact during certain times of the year making it a hardship for the State to comply with the requirements of paragraph (b)(2)(ii) of this section. A State requesting an alternate sample completion schedule must justify its need for the schedule and must submit supporting evidence and data including: a description of the population dispersal or population inaccessability problem within the State, the reason(s) why the State cannot comply with the requirements of paragraph (b)(2)(ii) of this section, the other alternative plans that were under consideration, and why these other alternative plans were not feasible.

(ii) *Temporary alternate completion plan—unanticipated events.* The Commissioner may approve an alternate completion schedule covering all 6 months and the time frames for a particular 6-month period where unforseen events beyond the State's control occur during that review period. Unforseen events can include, but are not limited to floods, earthquakes, and snowstorms as well as other conditions such as labor disputes. A State may request a temporary alternate completion by submitting a written request briefly describing the event, the period the revised schedule will stay in effect and the revised completion dates and completion percentages.

* * * * *

[FR Doc. 80-33131 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Bering Sea and Aleutian Islands Groundfish Fishery: Approval of Amendments to Preliminary Fishery Management Plan; Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA/Commerce.

ACTION: Approval of amendment of preliminary fishery management plan (PMP) and notice of proposed implementing regulations.

SUMMARY: This action modifies certain numerical parameters in the PMP upon which the management of Pacific cod (*Gadus macrocephalus*) is based, as follows: (a) decrease maximum sustainable yield (MSY) from 58,700 metric tons (mt) to 55,000 mt; (b) increase the equilibrium yield (EY) from 58,700 metric tons (mt) to 148,000 mt; and (c) increase optimum yield (OY), which equals total allowable catch (TAC), from 58,700 mt to 700,700 mt. This action also allows the Regional Director to apportion any amount of the Reserve to the total allowable level of foreign fishing (TALFF) and/or domestic annual harvest (DAH) as soon as practicable at times other than the four scheduled dates already in the PMP. Implementing regulations are proposed.

DATE: Comments on the amendment and proposed implementing regulations will be received until November 21, 1980.

ADDRESS: Comments should be addressed to: Denton R. Moore, Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, Telephone (202) 634-7432.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: The fisheries for Pacific cod in the fishery conservation zone off Alaska are managed under the authority of the Preliminary Management Plan (PMP) for the Trawl and Herring Gillnet Fishery of the Bering Sea and Northeast Pacific. The PMP was published in the **Federal Register** (42 FR 9298) on February 15, 1977, and implemented March 1, 1977, under provisions of the Fishery Conservation and Management Act of 1976, as amended (FCMA). It was extended through 1978, through 1979, and with amendments through 1980 (45 FR 1028).

The Secretary of Commerce has approved modifications to the PMP, based on accumulating evidence that the abundance of Pacific cod is increasing and that a 12,000 mt increase in the total allowable catch (TAC) is justified.

Recent surveys by the National Marine Fisheries Service (NMFS) of U.S. fishing and processing capacity and intent to fish and process fish indicate that the amount of Pacific cod (24,265 mt domestic annual harvest (DAH) plus 2,935 mt in Reserve) originally specified in the PMP for 1980 is more than sufficient to provide for industry needs for the remainder of the year. Hence, the 12,000 mt increase in TAC is surplus to DAH and should be apportioned to TALFF. Additional justification for these modifications appears in the PMP amendments which are set forth below. The proposed regulations relfect the August 1980 apportionment of reserves.

The PMP also is being amended to provide that the reserve amount specified for each groundfish species group may be apportioned to DAH or TALFF at times other than the four scheduled dates that are currently provided. This requires additional public comment procedures.

When the Regional Director determines that apportionment is required on dates other than those scheduled, he shall prepare a **Federal Register** notice on the proposed apportionment. That notice will advise interested persons how to submit comments on the proposed apportionment. These unscheduled apportionments are expected to be undertaken only when immediate action to increase a TALFF or DAH figure is necessary. Thus there may be grounds for a finding of good cause for omitting prior public notice and comment and the normal 30-day delayed effect pursuant to 5 U.S.C. subsections 553 (b)(B) and (d)(3).

The assistant Administrator for Fisheries, NOAA, has determined that this amendment to the PMP is necessary and appropriate to the conservation and management of Bering Sea groundfish resources, and that it is consistent with the National Standards of the FCMA, other provisions of the FCMA, and other applicable law. He has therefore approved the amendment and the proposed regulations set forth below. The Assistant Administrator has determined that promulgation of the amendment and the proposed implementing regulations does not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act, and that it does not constitute a significant regulation requiring the preparation of a regulatory analysis under Executive Order 12044.

Signed in Washington, D.C. this 21 day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

A. Amendments to the Preliminary Fishery Management Plan.

The following changes are made in 42 FR 9298–9331 (February 15, 1977), as amended at 45 FR 1028.

(1) Page 9325, Section 4.0, Table 18. Make the following changes for cod as appropriate: MSY—to 55,000 mt from 58,700 mt; EY—to 148,000 mt from 58,700 mt; 1980 OY—to 70,700 mt from 58,700 mt; TALFF—to 43,500 mt from 31,500 mt; DAH—no change; JVP—no change;

(2) Page 9322, Section 3.0, (6) Pacific cod.

(a) Distribution and abundance of stocks.

Delete second paragraph and add: "The annual catch of Pacific cod by all foreign nations in the eastern Bering Sea and Aleutians increased from 13,600 mt in 1964 to about 70,400 mt in 1970. Since then, catches have varied between 36,600 mt and 63,800 mt. Japan has accounted for 66–69 percent of the catch since 1971."

(b) Maximum sustainable yield.

Delete all and add: "The incidental catch of cod in foreign trawl catches makes questionable the use of CPUE trends from the commercial fishery. Moreover, the semi-demersal distribution of cod makes them difficult to assess with research vessel trawls. MSY for this species has, therefore, been estimated on the basis of commercial catch data. Because catches increased rapidly in the mid-1960's and then stabilized, the average catch during this period of stability (1968–76) was assumed to reflect at least a minimal estimate of MSY. The original estimate was 58,700 mt, but this figure includes catches from west of 180° which lie outside the U.S. FCZ. A more appropriate estimate, including only those catches within the FCZ from the eastern Bering Sea (east of 180°) and Aleutians Islands area, is 55,000 mt."

(c) Equilibrium yield.

Delete all and add: "Analyses of data since 1978 indicate a substantial increase in the abundance of cod. The relative abundance of cod more than doubled between 1976 and 1978 based on NMFS research survey data, and in 1978 there appeared to be an unusually high abundance of age 1 cod (1977 year-class) in the research vessel catches (Bakkala et al, 1979). This same year-class was again abundant in research vessel catches during the large scale survey of the eastern Bering Sea in 1979 (unpublished data). Comparable data from the NMFS 1975 (pereyra, et al, 1976) and 1976 surveys show a seven-old increase in CPUE from 2.7 kg/km to 19.8 kg/km.

Age data from the commercial fishery indicate that the abundance of a cod cohort peaks in the fishery at age 3, contributes substantially to catches at age 4, but declines sharply at ages 5 and 6. The 1977 year-class will, therefore, make their greatest contribution to the fishery in 1980 and 1981.

The estimated biomass of cod from the 1979 survey was 792,300 mt with a 95 percent confidence interval of 603,200—981,400 mt. About 81 percent of the total biomass was made up of age groups 1 and 2 which are only partially recruited to the fishery.

Using population estimates by age from the 1979 NMFS survey, historical growth rates, a range in instantaneous natural mortality rates of 0.5–0.7, and various possible fishing mortalities by age, the projected biomass of cod in 1980 has been calculated. This projection indicates that the exploitable biomass (age group 2–5) in 1980 falls within the range of 740,000–910,000 mt.

Using the conservative lower end of the projected range in biomass and an exploitation rate of 20 percent, the EY is estimated to be 148,000 mt."

(3) Page 9325 Section 4.0B. Total Allowable Catch. (6) Cod.

Delete all and add: "The large number of 3 year-old cod (1977 year-class) justifies an increase in TAC in 1980. Since natural mortality will rapidly reduce the abundance of this year-class during 1980 and 1981, it is beneficial to increase its harvest during the short

period it remains in the fishery. Due to possible inaccuracies in the 1979 biomass estimate and in the projection of this estimate into 1980, TAC is set at 70,700 mt rather than a higher level closer to the EY.

Since the present cod DAH is sufficient, a higher TAC would likely result in a higher TALFF that would cause an increase of supplies on the international market. A TAC of 70,700 mt, however, should have negligible influence on supply/demand conditions that might affect the U.S. fishing industry at a time when it is increasing expenditures and effort in the cod fishery. Also, this small increase in TAC will maintain the density of cod at a higher level, which will provide for larger catches per unit of effort for U.S. fishermen. Hence, their costs per unit of catch should be reduced."

Page 9329 Section 7.0 References. Add the following section on cod immediately after the section on sablefish as follows:

Pacific Cod

Bakkala, R.G., L.L. Low, and V. Wespestad. 1979. Condition of Groundfish Resources in the Bering Sea and Aleutian Area. U.S. Department of Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Document submitted to INPFC, 106 pp.).

Pereyra, W.T., J.E. Reeves, and and R.G. Bakkala. 1979. Demersal Fish and Shellfish Resources of the Eastern Bering Sea in the Baseline Year 1976. U.S. Department of Commerce, NOAA, NMFS, NWAFC, Seattle WA. (processed report)."

(4) Page 9331 Section 9.0 Appendix B.8.0 Reserves. Delete first paragraph and add the following: "(a) As soon as practicable after each of the following dates, and on such other dates as he determines necessary, the Regional Director shall apportion to TALFF and/or DAH any portion of the reserve amount set forth in Table 18 that he determines to be appropriate: February 2, April 2, June 2, and August 2."

B. Proposed Rulemaking to Implement the PMP Amendments

(1) It is proposed to amend 50 CFR 611.93(b)(3)(i) to read:

§ 611.93 Bering Sea and Aleutian Islands Groundfish Fishery.

* * * * *

(b) * * *

(i) *Apportionment of Reserves.* As soon as practicable after each of the following dates, and on such other dates as he determines necessary, the Regional Director shall apportion to TALFF and/or DAH any portion of the Reserve set forth in Part 4A of Appendix I to § 611.20 that he determines to be appropriate, in accordance with paragraph (b)(3)(iii) of this section: February 2, April 2, June 2, and August 2.

(2) It is proposed to amend 50 CFR 611.93(b)(3)(iii)(D)(*1*) by adding the following after the last period following the phrase "(. . . and July 28)."

* * * When the Regional Director determines that apportionment is required on dates other than those specified in paragraph (b)(3)(i) of this section, he shall issue a **Federal Register** notice on the proposed apportionment which shall state the terms upon which interested persons will be authorized to submit comments on the apportionment to the NMFS Alaska Regional Director.

* * * * * *

(3) It is proposed to amend Part 4A of Appendix I to 50 CFR 611.20, by revising the figures for Pacific cod to read:
Optimum yield (OY) mt., 70,700
Domestic harvest (DAH) mt., 22,265
Joint venture (JVP) mt.; 15,065
Reserve, 0
TALFF, 48,435

[FR Doc. 80-33285 Filed 10-23-80; 8:45 am]
BILLING CODE 3510-22-M

---

50 CFR Parts 656 and 657

Mid-Atlantic Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings for the purpose of public input on Amendment #2 to the Fishery Management Plans for Atlantic Mackerel and Butterfish (FMPs).

DATES: Written comments on the amendments to the plans for Atlantic Mackerel and Butterfish from members of the public may be submitted no later than November 10, 1980.

Individuals or organizations wishing to comment on any of the above fishery management plans may do so at public hearings to be held at the locations listed below:

November 10, 1980—Salisbury, Maryland
November 10, 1980—Toms River, New Jersey
November 11, 1980—Narragansett, (Galilee) Rhode Island
November 13, 1980—Montauk, Long Island, New York

ADDRESS: Send comments to: Chairman, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901.

Public hearing locations:

November 10, 1980—Sheraton Inn, 300 S. Salisbury Boulevard, Route 13 South, Salisbury, Maryland 21801
November 10, 1980—Holiday Inn, 290 Highway 37 East, Toms River, New Jersey 08753
November 11, 1980—Dutch Inn, Great Island Road, Narragansett (Galilee), Rhode Island 02882
November 13, 1980—Gurney's Inn, Old Montauk Highway, Montauk, Long Island, New York 11954

All of the public hearings mentioned above will convene promptly at 7:00 P.M. Hearings will be tape recorded and the tapes filed as an official formal transcript of proceedings. Summary minutes will be prepared on each hearing.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone: 302-674-2331.

SUMMARY: The fishery management plan (FMP) for Atlantic mackerel was approved by the Assistant Administrator for Fisheries, NOAA, on July 3, 1979 for fishing year 1979–1980 (April 1, 1979–March 31, 1980). Amendment #1, extending the FMP through fishing year 1980–1981, was approved by the Assistant Administrator on March 17, 1980. The purpose of Amendment #2 is to extend the FMP beyond the end of fishing year 1980–1981. The management unit for this FMP is all Atlantic mackerel under U.S. jurisdiction.

The butterfish FMP was approved by the Assistant Administrator on November 9, 1979, for fishing year 1979–1980 (April 1, 1979–March 31, 1980). Amendment #1, extending the FMP through fishing year 1980–1981, was approved by the Assistant Administrator on March 17, 1980. The purpose of Amendment #2 is to extend the FMP for up to one year beyond the end of fishing year 1980–1981.

Dated: October 21, 1980.

Robert K. Crowell,
Deputy Executive Director.

[FR Doc. 80-33271 Filed 10-23-80; 8:45 am]
BILLING CODE 3510-22-M

---

50 CFR Part 674

North Pacific Fishery Management Council, High Seas Salmon Fishery Management Plan; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearings on proposed amendments to the Fishery

Management Plan for High Seas Salmon Off the Coast of Alaska East of 175° East Longitude and draft proposed regulations for the 1981 troll salmon season.

SUMMARY: The North Pacific Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will hold public hearings for the purpose of public input on its proposed amendments to the High Seas Salmon Fishery Management Plan (FMP) and regulations for the 1981 season.

DATES: Written comments may be submitted on or before December 15, 1980. Individuals or organizations wishing to comment on the named fishery management plan may do so at public hearings to be held at the times and locations listed below:

November 13, 1980—Juneau, Alaska
November 13, 1980—Sitka, Alaska
November 14, 1980—Ketchikan, Alaska
November 6, 1980—Renton, Washington
November 9, 1980—Anchorage, Alaska

ADDRESSES: Send comments to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

Public hearings locations:

November 13, 1980—Gasineau Room, Baranof Hotel, Juneau, Alaska, 10:00 a.m. to 5:00 p.m.
November 13, 1980—Centennial Building, Sitka, Alaska, 9:00 a.m. to 5:00 p.m.
November 14, 1980—Gold Room, Marine View Hotel, Ketchikan Alaska, 9:30 a.m. to 5:00 p.m.
December 6, 1980—Sheraton-Renton Inn, 800 Ranier Avenue, South, Renton, Washington, 9:30 a.m.
December 9, 1980—Anchorage Westward, Hilton, Anchorage, Alaska, 9:00 a.m.

Winter travel in Alaska is sometimes difficult and makes it necessary to consider alternative meeting places and times. We have therefore planned to visit the city where a hearing was cancelled as soon as weather permits. Cancellations and new locations, if necessary, will be announced locally by telephone and radio, and when possible, by newspaper and television.

Copies of the draft fishery management plans are available at the following locations:

Anchorage

Alaska Department of Fish and Game, 333 Raspberry Road, Anchorage, AK 99502
National Marine fisheries Service, Federal Building, and U.S. Court House, 701 C Street, Anchorage, Alaska AK 99513
Z. J. Loussac Public Library, 427 F Street, Anchorage, Alaska 99510.
North Pacific Fishery Management Council, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, AK

Bethel

Alaska Department of Fish and Game, P.O. Box 96, Bethel, AK 99559.
Bethel Public Library, Bethel, AK 99559.

Cordova

Alaska Department of Fish and Game, P.O. Box 669, Cordova, AK 99574.
Cordova Public Library, Cordova, AK 99574.

Dillingham

Alaska Department of Fish and Game, P.O. Box 199, Dillingham, AK 99576.
Dillingham Public Library, Dillingham, AK 99576.

Fairbanks

Alaska Department of Fish and Game, 1300 College Road, Fairbanks, AK 99701.
Fairbanks North Star Borough Public Library, 901 1st Avenue, Fairbanks AK 99701.

Homer

Alaska Department of Fish and Game, Homer, AK 99603.
Homer Public Library, Homer, AK 99603.

Juneau

Alaska Department of Fish and Game, S.E. Regional Office, 210 Ferry Way, Juneau, Alaska 99801.
Alaska Department of Fish and Game, Commissioner, Subport Building, Juneau, AK 99801
National Marine Fisheries Service, Room 453, Federal Building, Juneau, AK 99802.
Juneau Memorial Library, 114 West 4th Street, Juneau, AK 99802.

Ketchikan

Alaska Department of Fish and Game, 208 State Court and Office Building, 415 Main Street, Suite 208, Ketchikan AK 99901.
Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901.

Kodiak

Alaska Department of Fish and Game, Kodiak, AK 99615.
A. Holmes Johnson Memorial Library, Kodiak, AK 99615.
National Marine Fisheries Service, Gibson, Cove, Kodiak, AK 99615.

Kotzebue

Kotzebue Public Library, Kotzebue, AK 99752.

Petersburg

Alaska Department of Fish and Game, Swanson Building, Petersburg, AK 99833.
Petersburg Public Library, Petersburg AK 99833

Sand Point

Alaska Department of Fish and Game, Sand Point, AK 99661.
Sand Point Community/School Library, Sand Point, AK 99661.

Seward

Alaska Department of Fish and Game, Seward Court Building, Seward AK 99664.

Sitka

Alaska Department of Fish and Game, State Office Building, Sitka, AK 99835.
Kedelson Memorial Library, Sitka, AK 99835.

Unalaska

Alaska Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, AK 99685.
Unalaska/School/Community Library, Unalaska, AK 99685.

Valdez

Alaska Department of Fish and Game, Valdez, AK 99686.

Wrangell

Alaska Department of Fish and Game, P.O. Box 200, Wrangell, AK 99929.
Wrangell Public Library, Wrangell, AK 99929.

Yakutat

Alaska Department of Fish and Game, P.O. Box 68, Yakutat, AK 99689.

Limited number of the proposed amendment package will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, AK 99501 (P. O. Box 3136DT, Anchorage, AK 99510) and the National Marine Fisheries Service, Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone (907) 274-4563.

Dated: October 21, 1980.

Robert K. Crowell,
Deputy Executive Director.

[FR Doc. 80-33272 Filed 10-23-80; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 208
Friday, October 24, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Fort Belknap Assiniboine and Gros Ventre Tribes in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Fort Belknap Assiniboine and Gros Ventre Indian Tribes in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of Assiniboine and Gros Ventre Indian Tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of these tribes will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of indian Affairs, Department of the Interior, to be needy members of the tribes utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 1, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on October 16, 1980.

John W. Goodwin

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-33051 Filed 10-22-80; 8:45 am]

BILLING CODE 3410-05-M

Food and Nutrition Service

Advisory Council on Maternal, Infant and Fetal Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.

Date and time: 9:00 a.m., November 17-19, 1980.

Place: El Tropicano Hotel, 110 Lexington Avenue, San Antonio, Texas 78205.

Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP), and will discuss a wide range of matters concerning the operations of these two programs.

Proposed agenda: The agenda will include discussion time for the following issues: Demonstration projects and program evaluations; food delivery and the WIC Program 10 State audit; funding and legislation; WIC Program performance standards; the WIC and CSFP food packages; and general program operations.

This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Persons wishing additional information about this meeting should contact Rita Myers, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-8421.

Carol Tucker Foreman,

Assistant Secretary, for Food and Consumer Services.

October 17, 1980.

[FR Doc. 80-33043 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-30-M

Special Supplemental Food Program for Women, Infants and Children, (WIC) Program, Funding Formula

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice; Food Funding Formula for the WIC Program.

SUMMARY: The Department is publishing a notice announcing its plans to distribute FY 1981 program (food) monies to State agencies participating in the Special Supplemental Food Program for Women, Infants and Children (WIC). The action described in this notice must be taken because the FY 1981 WIC appropriation provided in the resolution making continuing appropriations for fiscal year 1981 is not sufficient to permit the Department to use the existing program funding formula in its entirety to allocate FY 1981 program grants.

DATES: Effective October 1, 1980. Comments are due on or before December 23, 1980.

ADDRESS: Send comments to Darrel E. Gray, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

Comments will be available for public inspection during normal business hours at: 201 14th Street, Room 4405, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Deborah A. McIntosh, Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250. (202)447-4888.

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

Bob Greenstein, Administrator, FNS, has determined that an emergency situation exists which warrants making this formula effective without opportunity for a public comment period on this action because fiscal year 1981 began on October 1, 1980, and funds must be allocated to participating State agencies in order for them to operate the WIC program. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this emergency action are impractical and contrary to the

public interest, and good cause is found for making this emergency action effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited until December 23, 1980, and this action will be scheduled for review so that a final document discussing comments received and any modifications required can be published in the **Federal Register** as soon as possible.

The Department published a proposed rule on June 19, 1979, at 44 FR 35231 and a final rule on October 16, 1979, at 44 FR 59489 setting forth the WIC program food funding formula for FY 1980 and subsequent years. The formula selected was similar to the one used to distribute funds FY 1979 with the exception of some modifications to the data base elements and special provisions. The FY 1980 formula was subsequently used to distribute WIC program food funds to participating WIC State agencies, beginning October 1, 1979.

Presently, the FY 1981 WIC appropriation has not been enacted. However, the resolution making continuing appropriations for fiscal year 1981 provides $900 million as the fiscal year 1981 funding level. At this level, the Department will be unable to guarantee all State agencies their FY 1980 fourth quarter food funding level.

Application of the Fiscal Year 1980 Funding Formula in Fiscal Year 1981

As the Department would like to assure that participants receiving WIC benefits in the fourth quarter of fiscal year 1980 continue to receive benefits in fiscal year 1981, a means of allocating fiscal year 1981 program grants to participating WIC State agencies has been formulated using the existing program funding formula structure with some modifications. This notice explains the method the Department will use to award fiscal year 1981 program grants to State agencies, assuming a WIC appropriation of $900 million. This method will, in any case, be used to make initial fiscal year 1981 allocations under the continuing resolution. Assuming such an appropriation, fiscal year 1981 WIC program food funds will be allocated to State agencies as follows:

1. The fiscal year 1980 program funding formula will be run to determine each State agency's maximum grant because the Department wants to ensure that no State agency receives more than its maximum grant. If it is determined that a State agency is receiving more funds than it needs to serve all of its potentially eligible participants in one quarter, the State agency will be held to its maximum grant funding level.

Every State agency will be guaranteed either its current fourth quarter base funding level or its maximum grant funding level. The base funding level will be equal to its fiscal year 1980 fourth quarter funding level, which includes those program funds which a State agency received through the July 1980 negotiated reallocation, plus ⅓ of its computed October 1979 through June 1980 migrant food expenditures, or ¼ of its total fiscal year 1980 migrant food grant, whichever is lower. Additionally, any fourth quarter front recoveries made during the July 1980 reallocation process will be restored to the State agency's original fiscal year 1980 fourth quarter funding level, except in those instances where projected September 1980 participation does not justify restoring the full original fourth quarter funding level.

2. The Department will then contact particular State agencies to determine whether a lower fiscal year 1981 funding level can be negotiated. This is in accordance with the fiscal year 1980 program funding formula provision allowing the Department to negotiate the level of funds a State agency will receive if it is mutually agreed that the allocation provided under the formula appears to be too great to expend. Funds recovered through the negotiations will, in essence, be redistributed to the remaining State agencies to enable the Department to fund these State agencies at their fourth quarter level. The Department will make every effort to allocate sufficient funds to State agencies to permit the continuation of current participation levels and asks the cooperation and assistance of all State agencies in achieving this objective.

Signed in Washington, D.C., on October 14, 1980.

Bob Greenstein,

Administrator, Food and Nutrition Service.

[FR Doc. 80-33137 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-30-M

Office of the Secretary

National Advisory Council on Child Nutrition; Meeting

Pursuant to Public Law 92-463 notice is hereby given that the National Advisory Council on Child Nutrition, established by Section 15 of the National School Lunch Act to make a continuing study of the child nutrition programs of the U.S. Department of Agriculture, has scheduled a meeting for November 6, 7 and 8, 1980. The meeting will be from 8:30 a.m. to 5:00 p.m., daily at the Palmer House Hotel, 17 East Monroe Street, Chicago, Illinois 60611. The meeting will be open to the general public and participants will be allowed to participate in discussions as time permits.

The agenda for the meeting will include a substantial amount of time for the preparation of the 1980 annual report to the President and Congress. It will be available 15 days prior to the meeting from Mrs. Margaret O'K. Glavin, Executive Secretary, National Advisory Council on Child Nutrition, United States Department of Agriculture, Food and Nutrition Service, 500 12th Street, SW, Washington, D.C. 30350: (202) 447-5548.

Dated: October 17, 1980.

Carol Tucker Foreman,

Assistant Secretary and Chairperson, National Advisory Council on Child Nutrition.

[FR Doc. 80-32895 Filed 10-23-80; 8:45 am]

BILLING CODE 3410-30-M

CIVIL AERONAUTICS BOARD

[Dockets 38559; 38622; 38635]

Hughes Air Corp.; Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of October, 1980.

Applications of Hughes Air Corp. d.b.a. Hughes Airwest, Aloha Airlines, Inc. and Hawaiian Airlines, Inc. for an exemption pursuant to Section 416(b) of the Federal Aviation Act of 1958, as amended.

By applications filed August 5, 21, and 25, 1980, respectively, Hughes Air Corp., d.b.a. Hughes Airwest,[1] Aloha Airlines, Inc., and Hawaiian Airlines, Inc. request exemptions from section 403 of the Federal Aviation Act and Parts 221 and 223 of the Board's Economic Regulations to permit them to provide free or reduced-rate transportation in lieu of cash payments for charitable contributions.

In support of their applications, the petitioners state that when recently amending the regulations governing free and reduced-rate transportation to permit expanded barter and promotional transportation, the Board noted Southwest Airlines' request that carriers be allowed to provide air transportation as contributions to charities, and in response stated that the practice is already permitted by Orders 78-12-49

[1] Order 80-9-65 approved the acquisition of Hughes Airwest by Republic and the change of the carrier's name to Republic West, Inc. d.b.a Republic or Republic Airlines.

and 80–2–155.[2] However, further reference to these orders, and in particular Order 80–2–155, reveals that the Board has only granted Southwest a one-year exemption to provide such transportation. The petitioners believe, therefore, that it appears, notwithstanding the language of ER–1181, that they and other carriers are not authorized to use free or reduced-rate travel in response to solicitations by charitable organizations, and they request that this point be clarified. No complaints have been filed against the applications.

We find the exemption to be in the public interest. In order to clarify our original intentions, we will grant the exemption and expand it to include all U.S. and foreign air carriers to the extent necessary to enable them to provide free and reduced-rate transportation in lieu of cash for charitable contributions.

Accordingly,

1. We exempt all U.S. and foreign air carriers from the provisions of section 403 of the Federal Aviation Act and Parts 221 and 223 of the Board's Economic Regulations to enable them to provide air transportation in lieu of cash for contributions to charitable organizations.

2. We will serve a copy of this order on all U.S. and foreign air carriers.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–33219 Filed 10–23–80; 8:45 am]

BILLING CODE 6320–01–M

[2] ER–1181, Docket 35392, July 2, 1980 at page 10.

DEPARPTMENT OF COMMERCE

Office of the Associate Deputy Secretary

Environmental Assessment/ Environmental Impact Statement, New Orleans, La.

AGENCY: Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is issuing this notice to advise the public that an environmental assessment will be prepared for a proposed World Exposition to be held in New Orleans, Louisiana during 1984. This will be the basis for the development of an Environmental Impact Statement.

DATE: The meeting will be held at 10:00 a.m., to 12:00 noon Monday November 24, 1980.

ADDRESS: The Chamber of Commerce of New Orleans and The River Region, Ground Floor Auditorium, 301 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Henry Riegner, Office of the Associate Deputy Secretary, Department of Commerce, Washington, D.C. 20230, (202) 377–4987.

SUPPLEMENTARY INFORMATION: The Department of Commerce will prepare an environmental assesment (EA) on a proposal to conduct a World Exposition in New Orleans, Louisiana for a five to six month period during 1984. The proposed World Exposition would involve approximately 85 acreas of developed and undeveloped land bounded generally by Canal Street, Erato Street, South Front Boulevard and the Mississippi River which would constitute the primary site based on the proposed multiple site concept. The Louisiana Superdome and the Louis Armstrong Park would be used as secondary sites at which related events would be held. Also included in this proposal are numerous residual improvements to access.

Alternatives under consideration include taking no action, various combinations of adapted use of available structure, construction of new structures and acquisition of various undeveloped parcels of land to provide the required amount of exhibition space.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. A series of public meetings and a public hearing will also be held. Public Notice will be given of the time and place for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EA should be directed to Henry Riegner, at the address given above.

Issued on: October 21, 1980.

J. Wade,

Acting Associate Deputy Secretary.

[FR Doc. 80–33146 Filed 10–23–80; 8:45 am]

BILLING CODE 3510–19–M

International Trade Administration

Articles of Quota Cheeses; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Publication of List of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: Section 702(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note) ("the TAA") requires the Department of Commerce to determine, in consultation with the Department of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly update of the type and amount of each such subsidy determined to exist. The current list is published below.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3173).

SUPPLEMENTARY INFORMATION: The Department of Commerce ("the Department") has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese. The Appendix to this notice lists the country, the subsidy program, and the gross and net amount of each subsidy on which information is currently available. The Department will incorporate any additional programs which are found to constitute subsidies and additional information on the subsidy programs listed as the information is developed.

The Department encourages any person having information on subsidy programs administered by foreign governments which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice publication are in accordance with

section 702(a) of the TAA (19 U.S.C. 1202 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

Appendix—Quota Cheese Subsidy Programs

Country	Program	Gross [1] subsidy (cents per lb)	Net [2] subsidy (cents per lb)
Belgium	European Community (EC) Restitution Payments.	55.2	55.2
Canada	Export Assistance on Certain Types of Cheeses.	16.7	16.7
Denmark	EC Restitution Payments.	28.2	28.2
Finland	Export Subsidy	62.6	62.2
	Indirect Subsidy	21.7	21.7
		84.3	84.3
France	EC Restitution Payments.	29.0	29.0
Ireland	EC Restitution Payments.	37.7	37.7
Italy	EC Restitution Payments.	72.6	72.6
Luxembourg	EC Restitution Payments.	55.2	55.2
Netherlands	EC Restitution Payments.	33.0	33.0
Norway	Indirect (Milk) Subsidy.	24.1	24.1
Portugal	Indirect (Milk) Subsidy.	38.5	38.5
Switzerland	Deficiency Payments.	58.0	58.0
United Kingdom	EC Restitution Payments.	25.3	25.3
West Germany	EC Restitution Payments.	31.9	31.9

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 80-33148 Filed 10-23-80; 8:45 am]
BILLING CODE 3510-25-M

National Bureau of Standards

Approval of Federal Information Processing Standard; FORTRAN

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. On July 20, 1979, notice was published in the **Federal Register** (44 FR 42750) that a standard for FORTRAN was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 69. The provisions of the standard were effective on the date of approval by the Secretary, September 4, 1980.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The objective of this standard is to promote higher programmer productivity, ease conversion to other computer systems, encourage transportability of both programs and programming skills, support program modifications with less effort, and enhance documentation and program testing.

This standard defines the programming language FORTRAN. It is to be used by implementors as the reference authority for the development of FORTRAN compilers, interpreters, or other language processors, and by other computer professionals whose work demands a detailed knowledge of the syntactic and semantic rules adopted as American National Standard X3.9-1978, FORTRAN.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. Apart from the provision requiring the explicit identification of syntactically non-conforming statements (paragraph 11.2 of the announcement portion), this FIPS represents the adoption of American National Standard X3.9-1978, FORTRAN.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mrs. Frances E. Holberton, Programming Science Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3485.

Dated: October 20, 1980.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 69 Announcing the Standard for FORTRAN

September 4, 1980.

Federal Information Processing Standards Publications (FIPS PUBs) are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* FORTRAN (FIPS PUB 69).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard FORTRAN, X3.9-1978, as a Federal Standard. The American National Standard FORTRAN, X3.9-1978, specifies the form and establishes the interpretation of programs expressed in the FORTRAN Programming Language. The standard consists of a full language, FORTRAN, and a subset language, Subset FORTRAN. The purpose of the standard is to promote portability of FORTRAN programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors, and by other computer professionals who need to know the precise syntactic and semantic rules adopted by the American National Standards Institute (ANSI). It is not the primary purpose of this standard to explain the language to the beginning or casual user. This Federal Standard specifies the set of features that must be supported by a language processor designated as FORTRAN.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* U.S. Department of Commerce, National Bureau of Standards, (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard X3.9–1978, FORTRAN.

7. *Related Document.* Federal Property Management Regulation 101–36.1305, Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents, Software Standards.

8. *Objectives.* The basic objectives in applying Federal Standard programming languages are: (1) To achieve the advantages that are inherent in the use of higher level languages, e.g., the simplification of program development and the production of more easily maintainable source programs; and (2) to minimize data processing costs by making it easier and less expensive to transfer programs among different computer systems, including replacement systems.

Government-wide attainment of the above objectives depends upon the widespread availability and use of high level programming languages to the exclusion of other programming languages such as assembly languages. Further, the availability of standard languages provides substantially better economy and efficiency in computer utilization. Federal Standard FORTRAN is for use by all Federal agencies for programming applications, particularly scientific or numeric computations, and for use by those who develop or acquire FORTRAN programs for government use.

9. *Applicability.* a. Federal standards for high level prgramming languages shall be used for computer applications and programs that are developed or acquired for government use. To facilitate this requirement, a family of Federal high level programming language standards is provided. The use of specific programming languages is limited to the approved Federal Information Processing Standards languages. Federal Standard FORTRAN is hereby designated as one of the high level programming languages standardized and approved for Government-wide use.

b. Every Federal department and agency that establishes a requirement for FORTRAN must use Federal Standard FORTRAN as the basis for specification.

c. Every Federal department and agency shall establish the necessary guidelines for the implementation and use of this standard.

d. Every Federal department and agency should recognize that Federal Standard FORTRAN is a general-purpose computer programming language that is suited for:

Solving numeric, scientific, or engineering problems;

Efficient computation on a wide range of computing equipment of varying power and structure;

Programs that are to be interchanged among processors.

e. Exceptions to the applicability of approved standards for high level programming languages may be obtained through the waiver process, as described in paragraph 12.

10. *Specifications.* Federal Standard FORTRAN specifications are the language specifications contained in American National Standard FORTRAN, X3.9–1978. The FORTRAN standard describes two levels of the FORTRAN language. FORTRAN refers to the full language and Subset FORTRAN refers to the subset of the full language.

The ANS FORTRAN document specifies the form of a program written in the FORTRAN language, semantic rules for program and data interpretation, and formats of data for input and output.

The ANS FORTRAN document does not specify limits on the size or complexity of programs, the range or precision of numeric quantities or the method of rounding of numeric results, the results when the rules of the standard fail to establish an interpretation, the minimum automatic data processing requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

11. *Implementation.* The implementation of Federal Standard FORTRAN involves four areas of consideration: Acquisition of FORTRAN processors, conformance to this standard, interpretation of FORTRAN, and use of FORTRAN.

11.1 *Acquisition of FORTRAN Processors.* The provisions of this publication are effective on Septemoer 4, 1980. All FORTRAN processors specified for Federal use after this date must implement Federal Standard FORTRAN. The requirements set forth in this paragraph are applicable to FORTRAN processors developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, or used under an ADP leasing arrangement.

A transition period will provide time for industry to produce FORTRAN processors conforming to the standard. The transition period will begin on the effective date and will continue for eighteen (18) months thereafter. The policies for the acquisition of FORTRAN processors during the transition period are:

a. The provisions of this FIPS PUB will not apply to FORTRAN language processors or computing services ordered before the effective date.

b. The provisions of this FIPS PUB will apply to orders placed on or after the effective date; however, a FORTRAN language processor not conforming to this FIP PUB may be acquired for interim use during the transition period. A standard-conforming processor must be delivered by the end of the transition period (eighteen (18) months from the effective date of this document).

11.2 *Conformance to Federal Standard FORTRAN.* A processor that conforms to Federal Standard FORTRAN must satisfy at least the following requirements: (1) The processor must include all of the language elements of one of the two levels of American National Standard FORTRAN, X3.9–1978; (2) The processor must satisfy all of the requirements defined in American National Standard FORTRAN, X3.9–1978, section 1.4 or section 1.4.1, as relevant; and (3) The processor must provide a facility that allows a FORTRAN source program to be analyzed with respect to Federal Standard FORTRAN. Any statement appearing in the source program that does not conform syntactically to the specifications of Federal Standard FORTRAN shall be explicitly identified.

The General Services Administration (GSA) has established the Federal Compiler Testing Center (FCTC) located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041 (703–756–6153) for the purpose of validating language processor conformance to this standard for Federal procurement, by means of a series of test programs. This service is offered on a reimbursable basis. The validation system reports the nature of any deviations that are detected.

Periodic changes will be required to the validation system in order to correct existing errors in the system, enhance test cases, and reflect official interpretations which affect this standard (see paragraph 11.3). In order to provide both currency and stability, new versions of the validation system will be introduced no more frequently than once per year. When a new validation system is introduced or changes are made to the existing validation system, the FCTC will make an announcement in the **Federal Register**, approximately six months prior to use of the system for official validation. The Federal Register notice will specify a comment period of at least 90 days. All comments and responses to the comments will be made available to the public prior to use of the new or modified system for official validations.

Copies of the new or modified system will be available through the National Technical Information Service (see paragraph 13).

11.3 *Interpretation of Federal Standard FORTRAN.* NBS will provide for the resolution of questions regarding Federal Standard FORTRAN specifications and requirements, and will issue official interpretations using the procedures of FIPS PUB 29, as appropriate. All questions about the interpretation of Federal Standard FORTRAN should be addressed to: Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

11.4 *Use of FORTRAN.* Federal Standard FORTRAN should be used as determined according to paragraph 9, Applicability. FORTRAN source programs, whether developed internally or on contract (including purchased or leased) should be limited to the elements of Federal Standard FORTRAN. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. It should be recognized that the use of nonstandard language elements make the interchange of programs and future conversion to a replacement system or processor more difficult and costly. It is not intended that existing programs be rewritten solely for the purpose of conforming to the standard.

12. Waiver Process. Heads of agencies may request that the requirements of this standard for the acquisition of FORTRAN processors or for the applicability of standardized and approved high level programming languages be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a nonconforming FORTRAN processor nor shall it make use of any nonstandard language unless it has already obtained such approval.

13. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 69 (FIPS–PUB–69), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 80–33135 Filed 10–23–80; 8:45 am]

BILLING CODE 3510–13–M

Approval of Federal Information Processing Standard; Minimal BASIC

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. On July 20, 1979, notice was published in the **Federal Register** (44 FR 42752) that a standard for Minimal BASIC was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 68. The provisions of the standard were effective on the date of approval by the Secretary, September 4, 1980.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

The Federal standardization of BASIC should contribute to economy and efficiency in computer utilization in two ways. First, it will improve the programming productivity of BASIC users. Second, it will reduce software costs by making it easier to transfer programs written in BASIC among different computer systems. This standard defines the syntax of the Minimal BASIC programming language and the semantics for its interpretation. It is to be used by implementors as the reference authority in developing compilers, interpreters, or other forms of high-level language processors and by other computer professionals whose work depends on the precise syntactic and semantic rules adopted by the American National Standards Institute for the BASIC language. It is not the primary purpose of the standard to explain the language to the beginning or casual user. Minimal BASIC is intended to serve both as a core language which could be included in any BASIC implementation, and as a foundation for a fuller language to be specified by subsequent standards.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. This FIPS represents the adoption of American National Standard X3.60–1978, Minimal BASIC.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. John V. Cugini, Programming Science Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3485.

Dated: October 20, 1980.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication Announcing the Standard for Minimal Basic

September 4, 1980.

Federal Information Processing Standards Publication (FIPS PUBs) are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Minimal BASIC (FIPS PUB 68).

2. *Category of Standard.* Softwear Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for Minimal BASIC, X3.60-1978, as a Federal Standard. The American National Standard defines the syntax of the Minimal BASIC Programming Language and the semantics for its interpretation. The standard is used by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules adopted by the American National Standards Institute (ANSI). It is not the primary purpose of the standard to explain the language to the beginning or casual user. This Federal Standard specifies the set of features that must be supported by a language processor designated as BASIC.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* U. S. Department of Commerce, National Bureau of Standards, (Institute for Computer Sciences and Technlogy).

6. *Cross Index.* American National Standard X3.60-1978, Minimal BASIC.

7. *Related Document.* Federal Property Management Regulation 101-36.1305, Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents, Software Standards.

8. *Objectives.* The Federal standardization of BASIC has two objectives: (1) To improve the programming productivity of BASIC users by making it sufficient to learn only one set of rules in order to program successfully on different computer systems; and (2) to reduce software costs by making it easier to transfer programs written in BASIC among different computer systems, including replacement systems. The first objective is especially important in view of BASIC's traditional role as a language whose use should incur only a small investment of learning time.

Government-wide attainment of the above objectives depends upon the widespread availability and use of high level programming languages to the exclusion of other programming languages such as assembly languages. Further, the availability of standard languages provides substantially better economy and efficiency in computer utilization. Federal Standard Minimal BASIC is for use by all Federal agencies for programming applications, particularly those where quick results are desired, and for use by those who develop or acquire BASIC programs for government use.

9. *Applicability.* a. Federal standards for high level programming languages shall be used for computer applications and programs that are developed or acquired for government use. To facilitate this requirement, a family of Federal high level programming language standards is provided. The use of specific programming languages is limited to the approved Federal Information Processing Standards languages. Federal Standard Minimal BASIC is hereby designated as one of the high level programming languages standardized and approved for government-wide use.

b. Every Federal department and agency that establishes a requirement for BASIC must use Federal Standard Minimal BASIC as the basis for specification.

c. Every Federal department and agency shall establish the necessary guidelines for the implementation and use of this standard.

d. Every Federal department and agency should recognize that Federal Standard Minimal BASIC is a general-purpose computer programming language that is suited for:

Fast creation of computer programs to solve small nonrecurring problems, particularly on computers providing time-shared or interactive service;

Use when ease of learning and casual use are most important.

e. Exceptions to the applicability of approved standards for high level programming languages may be obtained through the waiver process, as described in paragraph 12.

10. *Specifications.* Federal Standard Minimal BASIC specifications are the language specifications contained in American National Standard for Minimal BASIC, X3.60-1978.

The Minimal BASIC ANS document specifies program syntax, formats of data for input and output, minimal precision and range of numeric representations for input and output, semantic rules for program interpretation, and errors and exceptional circumstances that must be detected by a standard-conforming BASIC language processor.

The Minimal BASIC document does not specify limits on the size of programs, minimum automatic data processing requirements, means of supervisory control of programs, or the means of transforming programs internally for processing. Although Minimal BASIC is primarily an interactive language, this standard does not restrict implementations to the interactive mode.

11. *Implementation.* The implementation of Federal Standard Minimal BASIC involves four areas of consideration: acquisition of Minimal BASIC processors; conformance to this standard; interpretation of Minimal BASIC; and use of Minimal BASIC.

11.1 *Acquisition of Minimal BASIC Processors.* The provisions of this publication are effective on September 4, 1980. All BASIC processors specified for Federal use after this date must implement Federal Standard Minimal BASIC. The requirements set forth in this paragraph are applicable to BASIC processors developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, or used under an ADP leasing arrangement.

A transition period will provide time for industry to produce BASIC processors conforming to the standard. The transition period will begin on the effective date and will continue for eighteen (18) months thereafter. The policies for the acquisition of BASIC processors during the transition period are:

a. The provisions of this FIPS PUB will not apply to BASIC language processors or computing services ordered before the effective date.

b. The provisions of this FIPS PUB will apply to orders placed on or after the effective date; however, a BASIC language processor not conforming to this FIPS PUB may be acquired for interim use during the transition period. The standand-conforming processor must be delivered by the end of the transition period (eighteen (18) months from the effective date of this document).

11.2 *Conformance to Federal Standard Minimal BASIC.* A BASIC processor that conforms to Federal Standard Minimal BASIC must satisfy

all of the requirements defined in American National Standard for Minimal BASIC, X3.60–1978. Special notice should be taken of section 1.4 of that document, which deals with conformance rules for processors.

The General Services Administration (GSA) has established the Federal Compiler Testing Center (FCTC) located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041 (703–756–6153) for the purpose of validating language processor conformance to this standard for Federal procurement, by means of a series of test programs. This service is offered on a reimbursable basis. The validation system reports the nature of any deviations that are detected.

Periodic changes will be required to the validation system in order to correct existing errors in the system, enhance test cases, and reflect official interpretations which affect this standard (see paragraph 11.3). In order to provide both currency and stability, new versions of the validation system will be introduced no more frequently than once per year. When a new validation system is introduced or changes are made to the existing validation system, the FCTC will make an announcement in the **Federal Register**, approximately six months prior to use of the system for official validation. The Federal Register notice will specify a comment period of at least 90 days. All comments and responses to the comments will be made available to the public prior to use of the new or modified system for official validations. Copies of the new or modified system will be available through the National Technical Information Service (see paragraph 13).

11.3 *Interpretation of Federal Standard Minimal BASIC.* NBS will provide for the resolution of questions regarding Federal Standard Minimal BASIC specifications and requirements and will issue official interpretations using the procedures of FIPS PUB 29, as appropriate. All questions about the interpretation of Federal Standard Minimal BASIC should be addressed to: Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

11.4 *Use of Minimal BASIC.* Federal Standard Minimal BASIC should be used as determined according to paragraph 9, Applicability. BASIC source programs, whether developed internally or on contract (including purchased or leased), should be limited to the elements of Federal Standard Minimal BASIC. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. It should be recognized that the use of nonstandard language elements may make interchange of programs and future conversion to a replacement system or processor more difficult and costly. It is not intended that existing programs be rewritten solely for the purpose of conforming to the standard.

12. *Waiver Process.* Heads of agencies may request that the requirements of this standard for the acquisition of BASIC processors or for the applicability of standardized and approved high level programming languages be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a nonconforming BASIC processor nor shall it make use of any nonstandard language unless it has already obtained such approval.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 68 (FIPS–PUB–68), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 80–33136 Filed 10–23–80; 8:45 am]

BILLING CODE 3510–13–M

Approval of Federal Information Processing Standard; Representation of Geographic Point Locations for Information Interchange

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. In a letter dated January 11, 1979, Federal agencies and official State government points of contact were notified that a standard for representation of geographic point locations for information interchange was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, certain appropriate changes in the draft standard were made. Subsequently NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 70. The provisions of the standard are effective April 24, 1981.

The detailed justification document presented to the Secretary, which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

The Federal standard should contribute to economy and efficiency of the Government by improving the ability of its automated systems to interchange data involving geographic point locations. The standard is based on American National Standard X3.61–1978, a voluntary industry standard of the same name that has been developed by the American National Standards Institute.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

Interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS).

Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies paragraph of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Roy G. Saltman, Application Systems Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3491.

Dated: October 21, 1980.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 70

(Date)

Announcing the Standard for Representation of Geographic Point Locations for Information Interchange

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of title 15 Code of Federal Regulations (CFR).

1. Name of Standard. Representation of Geographic Point Locations for Information Interchange.

2. Category of Standard. Federal General Data Standard, Representations and Codes.

3. Explanation. This standard establishes uniform formats for geographic point location data. Geographic point location refers to the use of a coordinate system to define the position of a point that may be on, above, or below the earth's surface. It provides a means for representing these data in digital form for the purpose of interchanging information among data systems and improving clarity and accuracy of inter-personal communications.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. Cross Index. American National Standard X3.61-1978, Representation of Geographic Point Locations for Information Interchange.

7. Applicability. This standard is required for use by Federal agencies in representing geographic point locations in the interchange of information among more than one executive department or agency or with the private sector including industry, state, local or other Governments or with the public at large. Use of such standard representations contributes to operational benefits, efficiency and economy.

This standard does not apply to applications covered by non-conforming international agreements established under the aegis of the World Meteorogical Organization or the North Atlantic Treaty Organization.

This standard does not address many other geographic coordinate systems and vertical control datums utilized by the Department of Defense in military applications. Such applications are excluded from the provisions of the standard. Also, it is important to note that the standard applies only to uniquely identified locations. It does not necessarily apply to a series of coordinates developed at uniform intervals over a geographic area.

8. Specifications. The specifications are affixed. Except as noted here, this standard is materially identical with American National Standard Representation of Geographic Point Locations for Information Interchange, ANSI X3.61-1978, copyright 1978 by the American National Standards Institute, 1430 Broadway, New York, NY 10018, reprinted with permission. Differences with ANSI X3.61-1978 are in the addition of Paragraph 2.1.7.1; in the addition of new information in Tables 1, 2, and 3 and in corresponding references in the text; and in several textual modifications made for the purpose of clarity.

9. Implementation Schedule. This standard becomes effective April 24, 1981. Federal agencies, based upon their operational requirements, will develop procedures for implementing this standard by their operating units and personnel.

10. Waiver Procedure. Heads of agencies may request that provisions of this standard be waived in instances where its use would seriously affect the capability of the agency to perform its operational mission. Such waiver requests will be reviewed for approval by the Secretary of Commerce. Correspondence setting forth the reasons and justification for the waiver should be included in the waiver request.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. No action will be taken by the agency to deviate from the standard prior to the receipt of a waiver approval response from the Secretary of Commerce.

11. Where to Obtain Copies and Information. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Microfiche copies of this publication are also available from the National Technical Information Service. When ordering, refer to Federal Information Processing Standards Publication (NBS-FIPS-PUB-70), and title. Payment may be made by check, money order, or deposit account.

A list of all published Federal Information Processing Standards and current prices may be obtained from the Office of Standards Administration, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Telephone: (301) 921-3157.

Inquiries concerning the Data Elements and Representation Standards Program may be directed to the Center for Programming Science and Technology, Institute for Computer Sciences and Technology, NBS. Telephone: (301) 921-3491.

[FR Doc. 80-33183 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-13-M

Federal Standard COBOL (FIPS PUB 21-1); Proposed Interpretation

Under the provisions of Public Law 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. Interpretation number 6 to Federal Standard COBOL (FIPS PUB 21-1) is being recommended for Federal use. It pertains to the SORT statement.

This proposed interpretation is in accordance with the Interpretation Procedures for Federal Standard COBOL as contained in Federal Information Processing Standards Publication 29, dated June 30, 1974. The proposed interpretation, if adopted, will serve as an additional specification to Federal Standard COBOL, which is an adoption of the voluntary industry standard that has been developed by the American National Standards Institute.

The proposed interpretation contains a definition of the problem, identification of the issues, recommended interpretation, supporting of the issues, recommended interpretation, supporting justification for the proposed interpretation, necessary clarifications to Federal Standard COBOL to effect the resolution, and the effective date of the interpretation.

Prior to approval of the proposed interpretation by the National Bureau of

Standards, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may submit comments to the Standards Administration Office, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, not later than January 22, 1980.

Dated: October 21, 1980.

Ernest Ambler,

Director.

Federal Standard COBOL, Interpretation No. 6—The SORT Statement

Definition of the Problem

Can the input and output procedures associated with a SORT statement contain OPEN statements specifying associated GIVING and USING file-names, respectively? Further, can USING and GIVING file-names be specified in a SAME clause with a file-name that is specified in an OPEN statement contained in sort output and input procedures, respectively?

Issues

Given the following excerpt from a COBOL program:

```
I-0-CONTROL.
  SAME SORTIN-2E, SORTOUT-2E.
  •
  •
  •
PROCEDURE DIVISION.
  SORT SORTFILE-2E ON
    ASCENDING SORTFILE-KEY
    USING SORTIN-2E OUTPUT
    PROCEDURE OUT-PROCEDURE.
  •
  •
  •
  SORT SORTFILE-2E ON
    ASCENDING SORTFILE-KEY
    USING SORTIN-2E OUTPUT
    PROCEDURE OUTPROC.
OUTPROC SECTION.
OS-1. OPEN OUTPUT SORTOUT-2E.
OUT-PROCEDURE SECTION.
OPS-1. OPEN OUTPUT SORTIN-2E.
  •
  •
  •
```

A SORT USING file must not be open at the time of execution of the SORT statement. In the above program excerpt, is it permissible for the OPEN statement to specify file SORTIN-2E? What is the duration of the "execution of the SORT statement"? Does the duration include the execution of the output procedures or is the execution of the output procedure considered to be separate from the execution of the SORT statement?

Two or more files that are not sort or merge files can be specified in a SAME clause. However, because these files share the same storage areas, no more than one of these files may be open at one time. In the above program excerpt, are the files SORTOUT-2E and the USING file, SORTIN-2E, considered to be implicitly open at the same time?

Interpretation

This interpretation applies to American National Standard COBOL, X3.23-1974, as it has been adopted as Federal Standard COBOL, FIPS PUB 21-1. The interpretation is that it is not permissible in a given SORT statement:

(a) To specify in input and output procedures associated with that SORT statement an OPEN statement for the associated GIVING and USING files, respectively.

(b) To specify in output and input procedures associated with that SORT statement an OPEN statement specifying a file-name that is specified in a SAME clause in which associated USING and GIVING file-names, respectively, are also specified.

Supporting Justification

References: The following references are to American National Standard COBOL, X3.23-1974:

(a) Page I-92, Paragraph 5.3.4.3, first subparagraph numbered (1), states: "If a paragraph is being executed under control of another COBOL statement (for example . . . SORT . . .) and the paragraph is the last paragraph in the range of the controlling statement, then an implied transfer of control occurs from the last statement in the paragraph to the control mechanism of the last executed controlling statement . . ."

(b) Page IV-8, Paragraph 2.1.3.4, General Rule 3, states: "The SAME AREA clause specifies that two or more files that do not represent sort or merge files are to use the same memory area during processing . . . therefore, it is not valid to have more than one of the files open at one time . . ."

(c) Page VII-14, Paragraph 4.4.1, states: "The SORT statement creates a sort file by executing input procedures or by transferring records from another file, sorts the records in the sort file . . . makes available each record from the sort file . . . to some output procedure or to an output file."

(d) Page VII-17, Paragraph 4.4.4, General Rule 8, states: "If an output procedure is specified, . . . The compiler inserts a return mechanism at the end of the last section in the output procedure and when control passes the last statement in the output procedure, the return mechanism provides for termination of the sort and then passes control to the next executable statement after the SORT statement . . ."

(e) Page VII-17, Paragraph 4.4.4, General Rule 10, states: "If the USING phrase is specified. . . . At the time of execution of the SORT statement, file-name-2 and file-name-3 must not be open. The SORT statement automatically initiates the processing of, makes available the logical records for, and terminates the processing of file-name-2 and file-name-3. . . . The terminating function for all files is performed as if a CLOSE statement . . . had been executed for each file . . ."

Discussion: The SORT statement according to reference (c) includes the creation of the sort file by transferring records from another file (USING file-name), sorting the sort file, and making the sorted records available to some output procedure. The input and output procedures according to reference (a) are considered in the range of the controlling (SORT) statement. The sort operation according to reference (d) is terminated by the return mechanism that is inserted by the compiler at the end of the last section in the output procedure when control passes the last statement in the output procedure. The "execution of the SORT statement" (reference (e)) is that interval that begins the moment control is transferred to the SORT statement and ends when control is transferred to the next executable statement following the SORT statement in the source program. This duration of execution of the SORT statement includes the execution of any associated input or output procedures. Accordingly, based on reference (e), the USING files must not be opened in the output procedure.

The SORT statement according to reference (e) implicitly initiates the processing of the USING file. Since this file processing is terminated as if a CLOSE statement had been executed for the file, it is logical that the implicit initiation of the processing of the USING file is performed as if an OPEN statement had been executed for the file. Therefore, according to reference (b) any files specified in the SAME clause as a USING file must not be opened in the output procedure associated with the same sort statement as that USING file, otherwise, more than one of the files would be open at the same time.

Clarification of Federal Standard COBOL

None.

Effective Date of Interpretation

The effective date of this interpretation shall be 30 days after the date the approved interpretation is published in the **Federal Register**.

[FR Doc. 80-33184 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammal Permit Application; Baltimore Aquarium, Inc.

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name: Baltimore Aquarium, Inc. (P261).

b. Address: 10 South Street, Baltimore, Maryland 21202.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins *(Tursiops truncatus)*, 4.

4. Type of Take: Capture for permanent maintenance at the National Aquarium in Baltimore.

5. Location of Activity: Copano Bay, Texas.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 24, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: October 17, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-33140 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit

On August 27, 1980, Notice was published in the **Federal Register** (45 FR 57162), that a revised application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, Mystic, Connecticut 06355, to take six harbor porpoises for public display.

Notice is hereby given that on October 20, 1980, the National Marine Fisheries Service issued a Public Display Permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) to Mystic Marinelife Aquarium subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: October 20, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-33221 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

Performance Review Board

The Patent and Trademark Office announces the addition of a new member to its Performance Review Board. The original membership was announced in the **Federal Register** of February 6, 1980 (45 FR 8083) and a change in the membership was announced in the **Federal Register** of August 5, 1980 (45 FR 51867). The new member is: S. William Yost, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Mr. Yost is appointed as a permanent member of the Board.

Dated: October 20, 1980.

Lutrelle F. Parker,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 80-33214 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-16-M

Office of the Secretary

Coastal Zone Management Advisory Committee; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management Budget Circular A-63 of March 1974, the Secretary of Commerce has determined that the renewal of the Coastal Zone Management Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in August 1973, was rechartered on August 15, 1975, on August 15, 1977, and on September 25, 1978. Its original purpose was to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone, as provided in the Coastal Zone Management Act of 1972.

The Committee's advice has been useful to the Office of Coastal Zone Management in formulating policy, deciding program goals, and as a sounding board for new initiatives. A number of recommendations made in the form of resolutions to the Secretary of Commerce have been applied by the Office of Coastal Zone Management to its program formulation.

The Committee will continue with a balanced representation of 11 members. The Chairperson shall be elected from the membership. The Committee will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised Charter will be filed with the appropriate committees of the Congress, and with the Library of Congress.

Inquiries or comments may be addressed to Steven R. Purcell, Committee Control Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone: (202) 634-4245, or the Department's Committee Management Analyst, Mrs. Yvonne Barnes, U.S.

Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–4217.

Dated: October 17, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-33220 Filed 10-23-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 26, 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 August 15, 1980 and August 1, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 54393, 45 FR 51260) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 2090

Weight, Canvas Bag
2090–00–845–9150

Class 5140

Bag, Tool
5140–00–473–6256

C. W. Fletcher,

Executive Director.

[FR Doc. 80-33171 Filed 10-23-80; 8:45 am]

BILLING CODE 6820-33-M

COUNCIL ON WAGE AND PRICE STABILITY

Price Advisory Committee; Change of Meeting Date

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: On October 15, 1980, the Council announced in Vol. 45 of the **Federal Register**, at pages 68419–20 (FR Doc. 80–32103), that the next meeting of its Price Advisory Committee would be October 29, 1980, in Room 2010 of the New Executive Office Building. Because of the proximity in time between this proposed meeting and the next regularly scheduled meeting (November 12, 1980), the October 29 meeting is being cancelled. The next meeting of the Price Advisory Committee will be Wednesday, November 12, 1980, at 10:00 a.m. in Room 2010 of the New Executive Office Building, 726 Jackson Place, NW, Washington, D.C. 20503.

Purpose of the Meeting: The purpose of the meeting is to report on changes, if any, to the interim final price standards, to discuss the future course of the program, and to take up any other matters that come to the Committee's attention.

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: October 22, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-33370 Filed 10-23-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects; Notice of Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Laser Bioeffects.

Date of Meeting: 18 November 1980.

Time and Place: 0900 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.

Proposed Agenda: This meeting will be open to the public on 18 November 1980 from 0900–0930 hrs to discuss the scientific research program on Laser Bioeffects at Letterman Army Institute of Research. Attendance by the public at open session 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 P.L. 92–463, the meeting will be closed to the public from 0930–1715 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, 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.

J. Ryan Neville, Ph.D., Assistant Director, Research Contract Management, Leterman Army Institute of Research, Presidio of San Francisco, CA 94129, (415) 561–4367, will furnish summary minutes, roster of Committee members and substantive progam information.

For the Commander,

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

[FR Doc. 80-33218 Filed 10-23-80; 8:45 am]

BILLING CODE 3710-08-M

Coastal Engineering Research Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92–463), notice is hereby given of a meeting of the Coastal Engineering Research Board on November 12–14, 1980.

The meeting will be held in the Conference Room of the Holiday Inn-Inner Harbor, 301 W. Lombard Street, Baltimore, Maryland from 8:30 to 12:00 a.m. on 12 November and from 8:30 to 12:00 a.m. on 14 November.

The morning session on 12 November will be devoted to Action Items from the last meeting; a presentation on the Dolos Strength Tests performed by the Buffalo District; a briefing on Effects of Ice on Structures, and the Coastal Engineering Research Program. The afternoon will be spent on a field trip by bus to inspect the Chesapeake Bay Model.

The entire day of 13 November will be an aerial inspection of coastal projects in Ocean City, Maryland.

The morning session of 14 November will be devoted to discussion of the field inspection; the North Atlantic Division's Research Needs; and the Coastal Engineering Research Board's recommendations.

Participation by the public is scheduled for 10:00 a.m. on 14 November.

The meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room at the Holiday Inn is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Ted E. Bishop, Executive Secretary, Coastal Engineering Research Board, Kingman Building, Fort Belvoir, Virginia 22060.

Dated: October 17, 1980.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 80–33217 Filed 10–23–80; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

National Waterways Study; Announcement of Open Meetings

Three meetings will be held to discuss the development and evaluation of strategies to improve the effectiveness of the nation's waterborne transportation system over the next twenty-five year period.

The meetings will be held:

(1) 13 November 1980—7:45 a.m.–4:00 p.m., Rosslyn West Park Hotel, 1900 No. Fort Myer Drive, Arlington, Virginia.

(2) 18 November 1980—7:45 a.m.–4:00 p.m., Rodeway Inn Downtown, 2600 Market Street, St. Louis, Missouri.

(3) 19 November 1980—8:45 a.m.–5:00 p.m., Bonneville Power Administration Auditorium, 1002 NE Holladay Street, Portland, Oregon.

The meetings will address two topics: first, the assessment of the projections of waterborne traffic relative to current and foreseeable capability, and, second, the consideration of conceptual strategies to improve the system's effectiveness. Presentations of the study's direction and progress will be followed by an opportuniy for public discussion.

Persons who wish to attend the meetings are requested to preregister in order to obtain additional information. Copies of the workshop material are available upon request to interested persons who do not attend the meeting.

Registrations and requests for additional information should be sent to Mr. Thomas M. Ballentine, U.S. Army Corps of Engineers, Institute for Water Resources, National Waterways Study, Kingman Building, Fort Belvoir, Virginia 22060, or telephone (202) 325–7141.

Dated October 20, 1980.

Maximilian Imhoff,

Colonel, Corps of Engineers, Commander/Director.

[FR Doc. 80–33216 Filed 10–23–80; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Academic Advisory Board to the Superintendent, U.S. Naval Academy, a Subcommittee of the Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. I), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, will meet on 21 November 1980, in Rickover Hall, Room 301, United States Naval Academy, Annapolis, Maryland. The meeting will commence at 9:00 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving Academy problems.

For further information concerning this meeting contact: LCDR Jon L. Barto, USN, Military Secretary to the Academic Advisory Board, Weapons and Systems Engineering Department, United States Naval Academy, Annapolis, Maryland 21402, Telephone No. 301–267–3455.

Dated: October 20, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80–33194 Filed 10–23–80; 8:45 am]

BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

[DOE/EIS–0026]

Waste Isolation Pilot Plant Final Environmental Impact Statement

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of final environmental impact statement (FEIS), notice of availability of a summary of the FEIS in English and Spanish, notice of intent to enter into a cooperative agreement with the Bureau of Land Management and opportunity for written comment on the FEIS and the content and scope of the proposed cooperative agreement prior to issuance of the record of decision.

SUMMARY: The Department of Energy (DOE) announces the availability of a final environmental impact statement, DOE/EIS–0026, Waste Isolation Pilot Plant (October 1980), on the pending proposal to design, construct, and operate a waste isolation pilot plant (WIPP) to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States. A summary in English and Spanish is also available.

DATES: Written comments received prior to December 8, 1980, will be considered in preparation of the record of decision.

ADDRESS: Send written comments to: U.S. Department of Energy, WIPP Project Office, Mail Stop B–107, Washington, DC 20545, 301–353–3253.

FOR FURTHER INFORMATION CONTACT:

1. WIPP Project Staff, Department of Energy, MS B–107, Washington, DC 20545, 301/353–3253.
2. Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environmental Compliance, and Overview, EV–12, Forrestal Building, Room 4G–064, Department of Energy, Washington, DC 20585, 202/252–4600.

3. Mr. Stephen H. Greenleigh, Assistant General Counsel for Environment, Forrestal Building, MS 6A-152, Department of Energy, Washington, DC 20585, 202/252-6947.
4. Mr. Ben E. McCarty, Public Information Officer, Forrestal Building, MS 1E-218, Department of Energy, Washington, DC 20585, 202/252-5810.
5. Mr. Joseph M. McGough, Acting Project Manager, WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.

SUPPLEMENTARY INFORMATION:

I. Previous Notices

The Department of Energy published a notice of intent (43 FR 30331) on July 14, 1978, regarding the preparation of a DEIS on a proposed waste isolation pilot plant and soliciting comments as to the scope and content of that document. The notice of intent indicated that the proposed facility was being considered for siting in Eddy County, New Mexico. The Department of Energy published a notice of availability of the DEIS (44 FR 23117) on April 18, 1979. The notice of availability provided general information on the public hearings. The Department of Energy published a notice of public hearings (44 FR 32020) on June 4, 1979. The Department of Energy published a supplemental notice of a public comment period extension to September 6, 1979 (44 FR 38620) on July 2, 1979. The Department of Energy published a supplemental notice of additional public hearings (44 FR 51848) on September 5, 1980.

II. Background for the Authorized Project

This FEIS for the WIPP project is a revision of the draft EIS published in April 1979. It includes responses to comments received from the public and from government agencies, in writing and in a series of public hearings and has been modified to reflect changes in policy and existing legislative requirements.

Current legislation (Pub. L. 96-164) authorizes the construction of the WIPP as a defense activity of the U.S. Department of Energy. The WIPP mission, as defined in this legislation, is to provide a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States.

The alternatives considered in the FEIS are:

(1) Continue storing transuranic (TRU) waste at the Idaho National Engineering Laboratory as it is now, or with improved confinement.

(2) Proceed with WIPP at the Los Medanos site, as currently authorized.

(3) Dispose of TRU waste in the first available repository for high level waste. The Los Medanos site would be investigated for its potential suitability as a candidate site. This is Administration policy, and is the alternative preferred by DOE.

(4) Delay WIPP to allow other candidate sites to be evaluated for TRU waste disposal.

On February 12, 1980, President Carter sent a special message to Congress establishing the Nation's first comprehensive program for the management of radioactive waste. This message generally endorsed the broad consensus that evolved from the efforts of the Interagency Review Group on Nuclear Waste Management. The President decided that all repositories for the permanent disposal of highly radioactive waste should be licensed. He directed the Department of Energy to expand and diversify its program of geologic investigations before selecting a specific site for repository development. He decided the WIPP project should be cancelled and that defense and commercial waste should both be placed in the same repositories. The preferred alternative identified in this FEIS, disposal of TRU waste in the first available high-level waste repository, is consistent with the President's proposed program.

In accordance with the Impoundment Control Act of 1974, on March 4, 1980, President Carter sent to Congress a proposal to rescind funds appropriated for the WIPP. The proposal was not acted on by Congress; consequently the Department of Energy is required to continue project activities.

The FEIS examines the impacts of the preferred alternative, as well as the authorized WIPP project and other alternative plans, and compares the impacts of the alternatives.

Two principal differences between the FEIS and the DEIS arise from the deletion of an intermediate-scale facility and licensing from the WIPP project, as directed by the Department of Energy's authorizing legislation for fiscal year 1980. Another difference is that the WIPP project, the preferred alternative in the DEIS, is now termed the authorized alternative. The preferred alternative is to continue storing TRU waste at the Idaho National Engineering Laboratory (INEL) until an HLW repository is available to receive it, now expected to be between 1997 and 2006.

The development of WIPP (the authorized alternative) would occur in two distinct phases: (1) site and preliminary-design validation (SPDV), in which two deep shafts and in underground experimental area would be constructed; and (2) full construction in which the required surface and underground facilities and the remaining shafts would be built. The SPDV program has been planned to confirm the geologic adequacy of the site and to verify the engineering properties of the salt at the depth of the WIPP repository. After completion of these detailed in-situ site verification activities, the environmental impact statement would be supplemented, prior to a decision on construction of the WIPP facility, if significant new information related to environmental concerns and bearing on the proposed action or its impacts was developed during the SPDV program. Although designed to meet WIPP requirements, the SPDV program would be compatible with the characterization activities that would be needed to qualify the Los Medanos site for a high-level waste repository, if exploration at repository depth should be required.

In view of these principal differences mentioned above between the DEIS and the FEIS, the Department of Energy will consider written comments on the FEIS, received on or before December 8, 1980, in preparation of the record of decision.

III. Purpose of the EIS

The Department of Energy intends to use the WIPP EIS as the environmental input into future decisions concerning the authorized WIPP project. These include, but are not limited to, proceeding with detailed design, proceeding with the SPDV program, entering into a cooperative agreement with the Bureau of Land Management for the SPDV program, withdrawal of Federal and State land at the Eddy County site, long lead-time equipment procurement, and construction and operation of the facility.

IV. Cooperative Agreement

The Department of Energy and the Bureau of Land Management are currently engaged in negotiations to enter into a joint cooperative agreement which will allow access to sufficient public land to allow proceeding with the SPDV program. The cooperative agreement will set forth the terms and conditions under which the SPDV program may proceed. Written public comment with regard to the content and scope of the proposed cooperative agreement will be considered if received before December 8, 1980.

V. Summary of EIS

A summary of the FEIS has been prepared in English and in Spanish. The

summary is approximately 90 pages in length.

VI. Comment Procedures

A. Availability of final EIS

Copies of the FEIS have been distributed to Federal, and State agencies, organizations, and individuals which commented on the DEIS in writing or in public hearings and others known to be interested in the project. Additional copies of the FEIS and/or the summary in English or Spanish may be obtained from the following locations.

WIPP Project Office, Department of Energy, MS B-107, Washington, DC 20545, 301/353-3253.

WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.

U.S. Department of Energy, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214/767-7736.

Copies of the FEIS and summary in English and Spanish are also available for public inspection at:

Public Reading Room, FOI, Room 5B-180, Forrestal Building, 1000 Independence Ave., SW., Washington, DC.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

Energy Resources Center, 333 Market Street—7th Floor, San Francisco, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado.

Carlsbad Public Library, Public Document Room, 101 South Halagueno Street, Carlsbad, New Mexico.

B. Written Comments

Interested parties are invited to submit written comments with respect to the FEIS and the scope and content of the proposed cooperative agreement to the WIPP Project Office at the Washington, DC address listed above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Final EIS on WIPP." All comments and related information should be received by the Department by December 8, 1980, in order to insure consideration in preparation of the record of decision.

Any information or data furnished by persons considered to be confidential must be so identified and submitted in writing. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Dated at Washington, DC this 22nd day of Oct. 1980.

For the United States Department of Energy.

Ruth Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-33432 Filed 10-24-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements Between United States and the European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" 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 Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Finland Concerning Civil Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of contractual arrangements for the supply of the following materials.

Contract Number WC-JA-24, to Japan, 5.2 grams of plutonium as plutonium oxide, and 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutionium-uranium oxide.

Contract Number WC-IA-114, to the IAEA Laboratory, Seibersdorf, Austria, 5.2 grams of plutonium as plutonium oxide, and 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

Contract Number WC-FI-5, to Finland, 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-170, to the Institut fur Radiochemie, Federal Republic of Germany, 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-169, to the Energie Centrum Nederland, the Netherlands, 5.2 grams of plutonium as plutonium oxide, and 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-168, to France, 5.2 grams of plutonium as plutonium oxide, and 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

Contract Number WC-EU-167, to Alpha-Chemie und Metallurgie GmbH, Federal Republic of Germany, 5.2 grams of plutonium as plutonium oxide.

Contract Number WC-EU-166, to Belgonucleaire, Belgium, 5.2 grams of plutonium as plutonium oxide, and 1.3 grams of plutonium and 4.5 grams of normal uranium in the form of plutonium-uranium oxide.

The above materials are to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE [) Program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be improved through the interchange of measurement technology.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: October 20, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-33293 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Intent To Revise Wholesale Power Rates Which Will Become Effective July 1, 1981; Extension of Public Comment Period

AGENCY: Department of Energy, Bonneville Power Administration.

ACTION: Extension of comment period on notice of intent to revise wholesale power rates.

SUMMARY: By **Federal Register** Notice of June 12, 1980, (45 FR 39885) Bonneville

Power Administration (Bonneville) announced its intent to revise its wholesale power rate schedules effective July 1, 1981, to achieve a revenue increase of approximately 50 percent. This notice extends the period that Bonneville will accept public comments regarding its Notice of Intent from October 31, 1980, to December 1, 1980.

DATES: Effective date: October 24, 1980. Suggestions and recommendations concerning the development of Bonneville's initial proposed wholesale power rates will be accepted through December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Toll-free numbers for Oregon callers 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800-547-6048.

Mr. John H. Jones, Jr., Area Manager, Room 288, Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-234-3361, Ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Ext. 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: Bonneville has announced its intent to revise its wholesale power rates effective July 1, 1981, (45 FR 39885). It is presently anticipated that an approximate 50 percent increase in power revenues will be necessary to meet statutory obligations. In its notice, Bonneville invited interested persons to submit suggestions, advice, and recommendations on the rate increase through October 31, 1980. This notice extends the period for submitting suggestions, advice and recommendations through December 1, 1980. As Bonneville develops the initial rate proposal, it will, upon request, meet with interested persons who wish to review the studies and make suggestions.

When the initial proposal is published, Bonneville will announce opportunities for the public to participate in the development of Bonneville's rates.

Dated: October 17, 1980.

Ray Foleen,

Acting Administrator.

[FR Doc. 80-33296 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-034]

Air Products and Chemicals, Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On November 6, 1979, Air Products and Chemicals, Inc., (Air Products), P.O. Box 538, Allentown, Pennsylvania 18105, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-093). The certification involved the purchase of natural gas from Tenneco Oil Company for use by Air Products at its complex of chemical plants in New Orleans, Louisiana. The ERA certificate expires on November 5, 1980.

On October 8, 1980, Air Products filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Orleans complex pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the Division of Natural Gas Docket Room, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Air Products states that the volume of natural gas for which it requests recertification is up to 7,500 Mcf per day. It is estimated that approximately 66,400 gallons (1,581 barrels) of No. 2 fuel oil (0.3 percent maximum sulfur) will be displaced per day at the New Orleans complex.

The eligible seller of the natural gas is Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001. The gas will be transported by Tennessee Gas Pipeline Company, Trancontinental Gas Pipe Line Corporation, and Columbia Gas Transmission Corporation.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the **Federal Register** (November 3, 1980).

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Air Products and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on October 20, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-33295 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-035]

Phelps Dodge Corp.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On November 6, 1979, Phelps Dodge Corporation (Phelps Dodge), 32 North Stone, Suite 607, Tucson, Arizona 85701, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-095). The certification involved the purchase of natural gas from Lovelady, Inc., for use by Phelps Dodge at its Tyrone Branch, Tyrone, New Mexico; New Cornelia Branch, Ajo, Arizona; Copper Queen Branch, Bisbee, Arizona; Morenci Branch, Morenci, Arizona; and Douglas Reduction Works, Douglas, Arizona. The ERA certificate expires on November 5, 1980.

On October 14, 1980, Phelps Dodge filed an application for recertification of an eligible use of natural gas to displace fuel oil at these same facilities pursuant

to 10 CFR 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Phelps Dodge states that the volume of natural gas for which it requests recertification is an estimated 3.107 billion cubic feet per year. The use of this gas is estimated to displace the use of 322,941 barrels of No. 2 fuel oil (0.36% sulfur) per year at the Tyrone Branch, 121,533 barrels of No. 2 fuel oil (0.40% sulfur) per year at the new Cornelia Branch, 27,531 barrels of No. 2 fuel oil (0.20% sulfur) per year at the Copper Queen Branch, 33,133 barrels of No. 6 fuel oil (1.5% sulfur) per year at the Morenci Branch, and 51,560 barrels of No. 6 fuel oil (1.2% sulfur) per year at the Douglas Reduction Works.

The eligible seller of the natural gas is Lovelady, Inc., P.O. Drawer 2666, Midland, Texas 79702. The gas will be transported by El Paso Natural Gas Company (interstate pipeline), P.O. Box 1492, El Paso, Texas 79978, and Seagull Pipeline Corporation (intrastate pipeline), 1800 Capitol National Bank Building, 1300 Main Street, Houston, Texas 77002. In addition, El Paso has executed a gas transportation agreement with Valero Transmission Company (Valero), P.O. Box 500, San Antonio, Texas 78292, an intrastate pipeline company, whereby Valero transports volumes of natural gas on behalf of El Paso for ultimate delivery to Phelps Dodge.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, NW., Washington, D.C. 20461, Attention: Albert F. Bass, within ten (10) calendar days of the date of publication of this notice in the **Federal Register** (November 3, 1980).

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given Phelps Dodge and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on October 20, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-33294 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-18-000]

Cleveland Electric Illuminating Co.; Filing

October 17, 1980.

The filing company submits the following:

Take notice that on October 9, 1980, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 20 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on October 1, 1980.

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 filed on or before November 7, 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. 80-33244 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-30-000]

Commonwealth Edison Co.; Proposed Tariff Change

October 17, 1980

The filing Company submits the following:

Take notice that Commonwealth Edison Company on *October 14, 1980,* tendered for filing proposed changes in its FERC Electric Service Tariff No. 9, an Interconnection Agreement, dated June 21, 1967, between Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company.

The parties have agreed to modify the compensation provisions, in part, in Service Schedule C—Short Term Power.

Copies of the proposed rate schedule changes were served upon the Illinois Commerce Commission, Springfield, Illinois, the Iowa State Commerce Commission, Des Moines, Iowa and Iowa-Illinois Gas and Electric Company, Davenport, Iowa.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practive and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33245 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-21-000]

Consumers Power Co.; Contract Filing

September 17, 1980.

The filing company submits the following:

Take notice that Consumers Power Company on October 9, 1980 tendered for filing a Back-up Requirements Agreement between Consumers Power Company and Michigan Public Power Agency (MPPA). Consumers Power Company states that MPPA is a public body politic and corporate organized as a joint agency by its member municipalities under the laws of the State of Michigan for the purposes of

planning, financing, developing, owning, and operating facilities to supply electric energy for the present and future needs of its members. Consumers Power states that the Back-up Requirements Agreement is dated October 1, 1979 and became effective on September 1, 1980, being the first day of the month in which the Campbell Unit No. 3 generating unit went into commercial operation.

Consumers Power states that under a separate agreement (the Campbell Unit No. 3 Ownership and Operating Agreement), MPPA has agreed to acquire an undivided ownership interest in the Campbell Unit No. 3 generating unit. Consumers Power states that the purpose of the Back-up Requirements Agreement is to establish the terms and conditions under which Consumers Power will supply to MPPA certain back-up capacity and energy during periods when the Campbell Unit No. 3 generating unit is partially or totally out of service.

Consumers Power states that copies of the filing were served on MPPA and the Michigan Public Service Commission.

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 November 7, 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. 80-33246 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3397]

Continental Hydro Corp.; Application for Preliminary Permit

October 17, 1980.

Take notice that Continental Hydro Corp. (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) 825(r)] for the proposed Kanopolis Dam Project, FERC No. 3397, to be located at the U.S. Army Corps of Engineers' Kanopolis dam and reservoir, a flood control project, on the Smoky Hill River near Ellsworth, Ellsworth County, Kansas. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corp., 141 Milk St., Suite 1143, Boston, Massachusetts 02109.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' Kanopolis dam and reservoir. Project No. 3397 would consist of: (1) a proposed penstock extending from the 14 foot outlet tunnel; (2) a powerhouse located on the southeast bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 1.3 MW and the annual energy output to be 5.4 GWH.

Purpose of Project—Energy produced at the proposed project would be sold to Central Telephone and Utilities Company.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 22, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 20, 1981. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (as amended 44 FR 61238, October 25, 1979). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 22, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33247 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP74-122 et al.]

Energy Terminal Services Corp., et al.; Technical Conference

October 17, 1980.

Take notice that at 10:15 a.m. Thursday, October 30, 1980, the staff will hold a technical conference with representatives of Energy Terminal Services Corporation, *et al.* to discuss the cryogenic design and safety aspects of the LNG peak-shaving plant proposed in the cases cited above. There will be no discussions on the merits of any environmental, engineering, or other issues during the conference.

The conference will be held at the Federal Building, 26 Federal Plaza, Room F-2220, New York, New York, and

all interested parties may attend. It should be noted, however, that space in the room is limited to approximately 40 people. A site visit to the Rossville, Staten Island, New York, LNG plant may follow the conference, and any party interested in participating is invited to do so. Mere attendance will not serve to make any person formally a party to this proceeding.

Further information on the project, conference, or field tour is available from Mr. Robert Arvedlund, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9043.

Kenneth F. Plumb,

Secretary.

[FR Doc. 33248 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3321]

Joseph M. Keating; Application for Preliminary Permit

October 17, 1980

Take notice that Joseph M. Keating (Applicant) filed on August 6, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3321 to be known as Small-E Project located on the Merced River in Mariposa County, California. The proposed project would affect U.S. lands within Sierra National Forest. Correspondence with the Applicant should be directed to: Mr. Joseph M. Keating, 847 Pacific Street, Placerville, California 95667.

Project Description—The proposed project would consist of: (1) a 10-foot high concrete gravity diversion dam impounding 6-acre feet; (2) an intake structure; (3) a 5,100-foot long tunnel; (4) a steel penstock; (5) a powerhouse containing one generating unit rated at 4,500 kW; and (6) a 400-foot long transmission line. The proposed project would be operated on a run-of-the-river basis.

The average annual energy generation is estimated to be 15,000 MWh.

Purposes of Project—The power output of the project would be sold to the Pacific Gas & Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 15 months, during which time it would conduct engineering studies, review permit and construction requirements, conduct environmental studies, negotiate leases, do preliminary designs, make a feasibility analysis, make a historical review, and prepare an FERC license application. No new roads or other land disturbing activities would be required to conduct the studies. Applicant has filed a work plan for the studies for the new dam construction. The field studies to be conducted are line surveys, cross sections, profiles, and visual surveys.

The estimated cost of the work to be performed under the preliminary permit is $70,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *December 22, 1980*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *February 20, 1980*. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1079). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *December 22, 1980*. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33249 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-29-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980 Kentucky Utilities Company (KU) tendered for filing Supplement A to KU Rate Schedule FERC No. 93, which supplements the Agreement between KU and Tennessee Valley Authority. KU states that the filed supplement provides for compliance with Section 35.23 of the Commission's Regulations, as promulgated by Order No. 84, issued May 7, 1980.

KU states that a copy of the filing has been sent to the other party to the Agreement and the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections (1.8 and CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33250 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-25-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980 Kentucky Utilities Company (KU) tendered for filing Supplement A to KU Rate Schedule FERC No. 89, which supplements the Agreement between KU and The Kentucky-Indiana Pool. KU states that the filed supplement provides for compliance with Section 35.23 of the Commission's Regulations, as promulgated by Order No. 84, issued May 7, 1980.

KU states that a copy of the filing has been sent to the other parties to the Agreement and to the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections (1.8 and CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33251 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-26-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980 Kentucky Utilities Company (KU) tendered for filing Supplement A to KU Rate Schedule FERC No. 20, which supplements the Agreement between KU and Ohio Power Company. KU states that the filed supplement provides for compliance with Section 35.23 of the Commission's Regulations, as promulgated by Order No. 84, issued May 7, 1980.

KU states that a copy of the filing has been sent to the other party to the Agreement and to the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections (1.8 and CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33252 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-28-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980 Kentucky Utilities Company (KU) tendered for filing Supplement A to KU Rate Schedule FERC No. 74, which supplements the Agreement between KU and Owensboro Municipal Utilities. KU states that the filed supplement provides for compliance with Section 35.23 of the Commission's Regulations, as promulgated by Order No. 84, issued May 7, 1980.

KU states that a copy of the filing has been sent to the other party to the Agreement and to the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections (1.8 and CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1980. Protests will be considered by the Commisssion 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. 80-33253 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-20-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing company submits the following:

Take notice that on October 10, 1980, Kentucky Utilities Company (KU) tendered for filing three letters of agreement between KU and Tennessee Valley Authority (TVA) each of which provides for additional delivery points. The filing of these three letters of agreement would modify the Interchange Agreement dated March 22, 1951 between KU and TVA, such modifications being provided for in the Interchange Agreement. Request was made for waiver of time in the filing. The filing proposed would supplement KU Rate Schedule (FPC) FERC No. 93.

Any person desiring to be heard or to protest said filing should file a petitión to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and CFR 1.8, 1.10. All such petitions or protests should be filed on or before November 7, 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. 80-33254 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-27-000]

Kentucky Utilities Co.; Filing

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980 Kentucky Utilities Company (KU) tendered for filing Supplement A to KU Rate Schedule FERC No. 13, which supplements the Agreement between KU and Ohio Valley Electric Corporation. KU states that the filed supplement provides for compliance with Section 35.23 of the Commission's Regulations, as promulgated by Order No. 84, issued May 7, 1980.

KU states that a copy of the filing has been sent to the other party to the Agreement and to the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections (1.8 and CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33255 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER78-425]

Minnesota Power & Light Co.; Filing

October 17, 1980.

The filing company submits the following:

Take notice that on August 30, 1979, Minnesota Power and Light Company filed a refund report pursuant to the Commission's letter order, issued July 26, 1979, in the above referenced proceeding.

A copy of this filing has been sent to all affected parties.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before November 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33256 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-23-000]

New York State Electric & Gas Corp.; Proposed Cancellation of Electric Rate Schedule

October 17, 1980.

The filing Company submits the following:

Take notice that on October 14, 1980, New York State Electric & Gas Corporation (New York) tendered for filing a notice of cancellation of FPC Rate Schedule No. 26. The proposed effective date of the cancellation is October 31, 1980.

The subject rate schedule is an agreement dated January 27, 1957 providing for power sales to Peach Lake Utilities, Inc.; the effective commencement date being August 16, 1964. New York states that the rate schedule expires due to acquisition of the Peach Lake System by New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 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 part 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. 80-33257 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER-81-12-000]

Pacific Gas & Electric Co.; Contract Filing

October 17, 1980

Take notice that on October 6, 1980, Pacific Gas and Electric Company (PG & E) tendered for filing a contract dated August 19, 1980, entitled "Agreement for Sale of Electric Capacity and Energy by Pacific Gas and Electric Company to City of Gridley" (Agreement). The Agreement provides for supplemental power deliveries from PG & E to City of Gridley (Gridley) in the event that Gridley's current supplier, United States of America, Department of Energy (Department), is unable to satisfy Gridley's full electric power requirements.

Copies of the filing were served upon Gridley department, and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedcure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 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. 80-33258 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-22-000]

Southern California Edison Co.; Filing

October 17, 1980

The filing Company submits the following:

Take notice that on October 14, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement dated October 10, 1980, with Western Area Power Administration ("Western"). The Agreement is entitled "Edison-Western Interruptible Transmission Service Agreement."

The Agreement, sets forth the terms and conditions, and rates and charges under which Edison will provide interruptible transmission service for Western from Mead Substation in southern Nevada to Midway Substation in central California.

Edison has requested that the prior notice requirement be waived and that the Agreement be made effective as an initial rate schedule as of October 10, 1980.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Western Area Power Administration.

Any person desiring to be heard or to protest this 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, 1.10). All such petitions or protests should be filed on or before November 10, 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. 80-33259 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER-81-24-000]

Southern California Edison Co.; Filing

October 17, 1980

The filing Company submits the following:

Take notice that on *October 14, 1980* Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement, dated July 21, 1980, with State of California Department of Water Resources ("CDWR"). The Agreement is entitled "Agreement for Emergency Services Between Southern California Edison Company and State of California Department of Water Resources".

The Agreement provides for reciprocal Emergency Services between Edison and CDWR under the terms and conditions and at the rates and charges as set forth therein.

Edison requests that the Agreement be made effective 60 days after the date of filing with the Commission. Upon acceptance for filing by the Commission, the Agreement will remain in effect through December 31, 2004.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the State of California Department of Water Resources.

Any person desiring to be heard or to protest this 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 filed on or before *November 10, 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. 80-33260 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-125]

Super America of Flathead County; Filing of Petition for Review

October 17, 1980.

Take notice that Super America of Flathead County on September 29, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 3, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 3, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33261 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP77-138]

United Gas Pipe Line Co.; Petition for Approval for Accounting and Rate Treatment of Second and Third Year Research Development and Demonstration Expenditures and Advance Approval for Accounting and Rate Treatment of Fourth and Fifth Year Expenditures

October 17, 1980.

Take notice that on October 14, 1980, pursuant to Section 154.38(d)(5)(i) of the Regulations of the Federal Energy Regulatory Commission (Commission) United Gas Pipe Line Company (United) filed a petition in Docket No. RP77-138 for approval for accounting and rate treatment of research, development and demonstration (RD&D) expenditures incurred during the second through fifth years of United's RD&D project known as Project SNG-Biomass. Actual expenditures amounted to $201,000 for the second year of the project and $190,000 for the third year. Estimated fourth-year project costs are $59,000 and fifth-year costs $9,000.

Project SNG-Biomass involves the conversion of an untested combination of selected renewable carbonaceous materials into synthetic natural gas of pipeline quality by a unique integrated process combining the anaerobic digestion of biomass and waste feedstocks with the production of terrestrial and aquatic biomass feedstocks. United's petition describes the research tasks undertaken, the estimated or actual costs (as available) associated with such tasks and the integration of United's Project SNG-Biomass into a biomass research program being conducted by the Gas Research Institute.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.9, 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All such petitions or protests should be filed on or before November 7, 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. 80-33262 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3439]

Western States Energy & Resources, Inc.; Application for Preliminary Permit

October 17, 1980.

Take notice that Western States Energy & Resources, Inc. (Applicant) filed on September 5, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) – 825(r)] for proposed Project No. 3439 to be known as the Abiquiu Project located on the Rio Chama in Rio Arriba County, New Mexico. Correspondence with the Applicant should be directed to: Jeffrey M. Kossak, Esq., Suite 1900, 14 Wall Street, New York, New York 10005.

Project Description—The proposed project would utilize the existing U.S. Water and Power Resources Service's Abiquiu Dam and would consist of: (1) a penstock; (2) a powerhouse containing a generating unit having a rated capacity of 8,000-kW; (3) a transmission line with voltage compatible with the closest existing substation; and (4) appurtenant facilities. Applicant estimates the annual generation would average about 32,000,000 kWh.

Purpose of Project—Applicant would conduct studies to identify a purchaser of the project energy.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 3 years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic, and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $57,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *December 22, 1980*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *February 20, 1981*. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *December 22, 1980*. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33264 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-112]

Zanni's Chevron Service; Filing of Petition for Review

October 17, 1980.

Take notice that Zanni's Chevron Service on August 28, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before November 3, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before November 3, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-33265 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of September 8 Through September 12, 1980

During the week of September 8 through September 12, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy.

The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

R. J. Batla, Jr., Washington, D.C., BFA-0442, freedom of information

R. J. Batla, Jr. filed an Appeal from a partial denial by the Assistant Administrator for Regulations and Emergency Planning of the Economic Regulatory Administration of a request for information that Mr. Batla had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that one document and parts of another document were properly withholdable pursuant to Exemption 5. In addition, the DOE determined that additional documents in the custody of ERA's Petroleum Price Regulations Division are responsive to Mr. Batla's request. The DOE therefore directed the Assistant Administrator to identify all responsive documents in the Petroleum Price Regulations Division and either release those documents to Mr. Batla or issue a determination explaining why they are not releasable.

Dobrovir, Oakes & Gebhardt, Washington, D.C., BFA-0445, freedom of information

Dobrovir, Oakes & Gebhardt filed and Appeal from a partial denial by the Acting Assistant General Counsel for Legal Counsel of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that many of the documents which were initially withheld under Exemptions 4, 5, and 6 should be released to the public. The DOE held in the Decision and Order that disclosure of certain reports prepared by the Office of the Inspector General of the DOE would not be contrary to the public interest.

Energy Action Educational Foundation, Washington, D.C., BFA-0447, freedom of information

The Energy Action Educational Foundation appealed from a denial by the Deputy Assistant Secretary for Oil and Gas, Policy and Evaluation of its Freedom of Information Act request. In considering the Appeal, the DOE found that the report which the foundation sought contained segregable factual material and directed the Deputy Assistant Secretary to release those portions of the report to the Foundation. The DOE remanded the matter to the Deputy Assistant Secretary with instructions to release the remainder of the report or set forth with specificity the reasons why the report is exempt from disclosure and why its release would be contrary to the public interest.

Fund for Constitutional Government, Washington, D.C., BFA-0441, freedom of information

The Fund for Constitutional Government filed an Appeal from a partial denial by the Disclosure Officer, Office of Special Counsel for Compliance and a denial by the Office of the Executive Secretary of a request for information which the organization had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that portions of the request did not seek reasonably described records. However, a document responsive to the remainder of the request was found to exist, and an additional search for other documents responsive to this portion of the request was ordered.

A. Kranish, Washington, D.C., BFA-0448, freedon of information

Mr. A. Kranish filed an Appeal from a denial by the Director of the Program Support Office of the Office of International Affairs (PSO Director) of a request for information which Mr. Kranish had submitted under the Freedom of Information Act. The denial was based on a finding that no responsive documents could be found. In considering the appeal, the DOE found that the request was ambiguous, and that it was therefore improper for the PSO Director to arbitrarily adopt his own construction of the request without consulting Mr. Kranish as required by 10 CFR 1004.4(c)(2). The DOE therefore directed the PSO Director to consult with Mr. Kranish regarding the scope of his request.

Marlex Oil & Refining, Inc., Long Beach California, BEA-0290, crude oil

Marlex Oil & Refining, Inc. filed an Appeal of a February 13, 1980 Decision and Order issued to the firm by the Office of Petroleum Operations of the Economic Regulatory Administration in response to an application for an emergency allocation of crude oil filed under the provisions of 10 CFR 211.65(c)(2), the Crude Oil Buy/Sell Program. In the February 13 Order, the ERA granted Marlex an emergency allocation of 5265 barrels of crude oil per day for the months of February, March, and April 1980. In its Appeal, Marlex contends that the ERA erred in selecting an adjusted base period level of crude oil runs to stills for the purposes of evaluating the firm's Buy/Sell application and that the ERA's calculation of an appropriate emergency allocation was therefore incorrect. In considering the Marlex Appeal, the DOE determined that the ERA acted properly and appropriately within the framework of the applicable regulations and was neither arbitrary nor capricious in its selection of a revised base period level. The DOE therefore denied the Marlex Appeal.

Publicker Industries, Inc., Washington, D.C., BEA-0435, residual fuel

Publicker Industries, Inc. filed an Appeal from the February 1979 Entitlements Notice which required the firm to purchase 19,065 entitlements in order to rectify the erroneous issuance of 17,634 entitlements to the firm in the January 1979 Notice. In considering the submission, the DOE determined that the firm had failed to establish that the February 1979 Entitlements Notice was erroneous in fact and law. The Appeal was therefore denied.

Requests for Exception

Cermak & Harlem Shell, Berwyn, Illinois, BEO-0725, motor gasoline

Cermak & Harlem Shell filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet increased rent payments and realize a reasonable profit from its operation of a retail sales outlet. Accordingly, exception relief was granted.

Chevron U.S.A., Inc., San Francisco, California, BXE-1250, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Chevron to sell at market prices 100 percent of the crude oil produced from the State Lease PRC 1824 main zone.

Draper Fuel Co., Inc., Wilton, New Hampshire, DEE-3919, motor gasoline

Draper Fuel Co., Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period use of motor gasoline. The firm claimed that exception relief was appropriate to restore deductions made pursuant to 10 CFR 211.105(f) of volumes it obtained through the New Hampshire state set-aside system during the motor gasoline allocation base period and to provide additional gasoline to communiies in the firm's market area. In considering the request, the DOE found that the firm had not submitted any material indicating that it or its customers experienced a serious financial hardship or a gross inequity as a result of the adjustment of Draper's allocation of motor gasoline pursuant to § 211.105(f). The DOE also found that Draper had not demonstrated that communities in its market area were experiencing an unfair distribution of regulatory burdens under the DOE motor gasoline allocation program. Accordingly, exception relief was denied.

Edgington Oil Company, Inc., Long Beach, California, DXE-3442, crude oil

Edgington Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought an extension of the exception relief which was previously granted for the period December 1, 1978 through May 31, 1979. In considering the request, the DOE found that exception relief was still necessary in order to allow the firm to attain either its historical profit margin or historical return on invested capital. Accordingly, an extension of exception relief was granted.

Ferel Little Oil Co., San Augustine, Texas, DEE-1258, motor gasoline

Ferel Little Oil Company filed an Application for Exception from the provisions of 10 CFR 212.93 in which the firm sought to defer its election of one of two price rules provided for resellers of motor gasoline from June 30, 1980 to September 1, 1980. In considering the request, the DOE found that the firm had failed to establish that the election requirement had adversely affected the firm's operations. Accordingly, exception relief was denied.

Fireline Petroleum, Inc., Washington, D.C., BEE-0650, motor gasoline

Fireline Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9 in which the firm requested that it be assigned a new, lower-priced supplier of motor gasoline. In considering the request, the DOE found that the firm failed to establish that the price which it is required to

pay its base period supplier is significantly higher than the prevailing market prices paid by its competitors. Accordingly exception relief was denied.

Go-Clean, Milwaukee, Wisconsin, BEO-1067, motor gasoline

Go-Clean filed an application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a competitive disadvantage or a serious financial hardship as a result of the DOE regulatory program. Accordingly, exception relief was denied.

Howell Insulation Co., Inc., Birmingham, Alabama, BEE-1265, Motor Gasoline

Howell Insulation Co., Inc. filed an Application for Exception from the provisions of 10 CFR 211.12(f) in which the firm, an end-user of motor gasoline, requested that it be assigned a base period volume and supplier of motor gasoline. In considering the request, the DOE found that Howell had not demonstrated that its demand for motor gasoline could not be met by local suppliers and service stations in its area. The DOE also determined that the fact that the activities of the firm might be accomplished more easily if it were granted an allocation did not constitute a proper basis for the approval of exception relief. The DOE further determined that Howell would suffer neither a gross inequity nor a serious financial hardship in the absence of exception relief. Accordingly, exception relief was denied.

Indiana Farm Bureau Cooperative Association, Inc., Indianapolis, Indiana, BEE-0239, Propane; Motor Gasoline

Indiana Farm Bureau Cooperative Association, Inc. filed an Application for Exception from the provisions of 10 CFR 210.62(a). If the firm's request were granted, it would be permitted to alter the credit terms of discounts the firm offered its customers on May 15, 1973. In considering the firm's request, the DOE found that the percentage discounts which IFB currently offers to certain of its customers is unusually large in comparison to the discounts generally offered by other refiners. In addition, the DOE noted that the value of the discount was likely to rise to unreasonably high levels as the wholesale price of IBF's products rises. Therefore, the DOE permitted IBF to substitute a fixed 2-cent discount for the percentage discounts offered to its member-customers on May 15, 1973. However, the DOE found that this rationale did not provide a justification for granting the firm's exception request with respect to the discount policy it maintains for its non-member customers. Accordingly, exception relief was granted only with respect to IBF's member-customers.

Olson's Exxon, Service Station, Hot Springs, Arkansas, DEO-0376, Gasoline

On May 18, 1979, Olson's Exxon Service Station filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base-period allocation of motor gasoline. In considering the request, the DOE found that the firm's present allocation of gasoline reflects any benefits attributable to the investments and operating changes made by the station's new owner. Accordingly, exception relief was denied.

Randolph Oil Company, Moberly, Missouri, BEE-0654, Motor Gasoline

Randolph Oil Company (Randolph) filed an Application for Exception from the provisions of 10 CFR Part 211. In its Application the firm requests increased allocations of regular and unleaded gasoline for the express purpose of blending and marketing alcohol-extended motor fuels. In considering the firm's request, the DOE found that Randolph had satisfied the criteria established in past gasohol-related exceptions proceedings for the approval of exception relief. The DOE therefore increased the firm's allocation of motor gasoline.

Raymer Oil Company, Statesville, North Carolina, BEE-0404, Gasohol

Raymer Oil Company filed an Application for Exception in which it sought an increase in its base period allocation of motor gasoline for the purpose of blending and marketing gasohol. In considering the firm's request, the DOE rejected arguments made by eleven major refiners that the Office of Hearings and Appeals does not have legal authority to grant exception relief to gasohol marketers and that it should not do so. In addition, the DOE found that Raymer had satisfied the criteria stated in previous cases for the approval of exception relief. Accordingly, Raymer was granted exception relief which increased the amount of unleaded motor gasoline which it is entitled to purchase from its base period supplier, Phillips Petroleum Company, by 124,998 gallons per month.

Red Bluff Mobil Service Center, Pasadena, Texas, BXE-0283, Motor Gasoline

Red Bluff Mobil Service Center filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a serious financial hardship. Accordingly, exception relief was denied.

Stockman Oil Two, Inc., Greenwood, South Carolina, DEE-6101, DEE-7909, Motor Gasoline, Gasohol

Stockman Oil Two, Inc. filed two Applications for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocations of motor gasoline. In considering the requests, the DOE found that the firm had not shown that it was entitled to exception relief based on growth in its market area but that exception relief was necessary to enable the firm to produce and market gasohol. Accordingly, the DOE denied one of the firm's applications and granted the other.

Thornton Oil Corporation, Louisville, Kentucky, DEE-2140, Motor Gasoline

Thornton Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 211.9 in which the firm sought the assignment of a new, lower-priced supplier which would be directed to furnish the firm with the base period use of motor gasoline which it is now entitled to receive from the Petroleum Marketing Corporation. In considering the request, the DOE found that Thornton had not demonstrated that its purchases from PMC were of sufficient magnitude to add significantly to Thornton's overall weighted cost of motor gasoline, or that its relationship with PMC imposed a financial hardship on the firm. Accordingly, exception relief was denied.

Vicksburg Refining, Inc., Vicksburg, Mississippi, BEE-0116, Crude Oil

Vicksburg Refining, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211.65 in which the firm sought permission to participate in the DOE Crude Oil Buy/Sell Program as a refiner-buyer. In considering the request, the DOE found that Vicksburg had failed to show that it qualified for participation in the Buy/Sell Program or that it was suffering a gross inequity, serious hardship, or unfair distribution of burdens as a result of the DOE regulations. Accordingly, exception relief was denied.

Wally's Texaco Service, Dayton, Washington, BEO-1269, Motor Gasoline

Wally's Texaco Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the residents were not experiencing a gross inequity or an unfair distribution of burdens. Accordingly, exception relief was denied.

Warrior Asphalt Company of Alabama, Inc., Washington, D.C., DXE-3715, crude oil

Warrior Asphalt Company of Alabama, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) in which the firm sought an extension of the exception relief previously granted for the period December 1, 1978 through May 31, 1979. In considering the request, the DOE found that exception relief was still appropriate under the *Delta* standards. Accordingly, exception relief was granted in the amount of $146,798 per month for the period June 1, 1979 through November 30, 1979.

Young Refining Corporation, Washington, D.C., DXE-3445, DED-3445, crude oil

Young Refining Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought relief from its obligation to purchase entitlements during the period April through September 1979. In considering Young's request, the DOE found that the entitlements purchase obligation would prevent the firm from attaining either its historical profit margin or its historical return on invested capital. The DOE therefore granted Young exception relief amounting to $266,754 per month for a six-month period.

Requests for Temporary Exception

Golden Valley Electric Association, Inc., Fairbanks, Alaska, BEL-1328, crude oil

Golden Valley Electric Association, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 211.67 in which the firm sought a reduction in the

Entitlements purchase obligation of North Pole Refining. GVEA's sole source of Hago turbine fuel used in power generation. GVEA further requested that the North Pole be directed to pass through to GVEA all benefits arising from this reduction in North Pole's entitlements purchase obligation. In considering the request, the DOE found that the firm had failed to meet the criteria for temporary exception relief set forth in 10 CFR 205.125(b). Specifically, the DOE found that GVEA had failed to establish that in the absence of temporary exception relief the firm would experience an irreparable injury. In addition, the DOE found that GVEA had failed to make a *prima facie* showing that it would succeed on the merits of its underlying exception request. Accordingly, temporary exception relief was denied.

Winston Refining Company, Fort Worth, Texas, BEL-1284, crude oil

The Winston Refining Company filed an Application for Temporary Exception from the provisions of the Entitlements Program (10 CFR 211.67). Specifically, Winston requests that the Office of Hearings and Appeals order an immediate increase in the number of entitlements issued to the firm to bring Winston's averge crude oil acquisition costs into substantial parity with those of other crude oil refiners. In considering the Application, the DOE determined that Winston had failed to show that it would suffer an irreparable injury in the absence of temporary exception relief or that there is a strong likelihood of success on the merits of its exception request. Winston's temporary exception request was therefore denied.

Motion for Evidentiary Hearing

Leo's-Winstead's, Inc., Raytown, Missouri, DRH-0232, motor gasoline, No. 1 fuel, No. 2 fuel oil

Leo's-Winstead's, Inc. filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm on May 23, 1979, by the Central District of the Economic Regulatory Administration's Office of Enforcement. In considering the firm's request, the DOE determined that Leo's had not established that disputed issues of fact exist which can best be resolved at an evidentiary hearing. Accordingly, the firm's Motion for Evidentiary Hearing was denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Missouri Terminal Oil Onyx Corporation, BEJ-0131, St. Louis, MO
Thriftway Co./Cities Service Co., BEJ-0127, Wash., D.C.
White Pet. Inc., Cities Service Co., BEJ-0128, Wash., D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case No., and Location

Billykay Service Station, Inc., DEO-0401, Brooklyn, NY
South Ridgewood Amoco, BEO-0242, S. Daytona, FL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Gas 'n Groceries, DEE-7523 thru DEE-7526, Waynesville, NC
Hoover Amoco, BEO-0375, Birmingham, AL
J & M Shell Service, BEO-0759, San Mateo, CA
J.S.L., Inc., DEE-4063, Wash., DC
McLaughlin's Exxon Servicenter, BEO-1026, Rocky Mount, VA
Phillip M. Croft, BEO-1118, Charleston, SC
Reed, Martin, Frandsen & Associates, DEE-6691, Reno, NV
Ron Cromwell Chevron; Self-Serv Chevron, BEO-0418, BEO-0419, San Fran., CA
Vilish Mini-Market, BEO-0152, Pittsburgh, PA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Bob Parker's Mobil, DEO-0189
Bray Oil Co., DRO-0147
Calcasieu Ref. Co., BEA-0392
Caldo Oil Co., Inc., DEE-5756
Carl King, Inc., DEO-0178
Commonwealth Oil Ref. Co., Inc., BEE-1302; BMR-0045
Commonwealth Oil, BEL-1306
Cool Fuel, Inc., DEE-5322
Crown Central Pet. Corporation, BES-0087; BST-0087
Demenno/Kerdoon, BEL-0091; BES-0091
Drug Transport, Inc., BEO-0125
Farmers Union Central Exchange, Inc., BEE-1373
Gladieux Refinery, Inc., BEA-0443
Gladieux Ref., Inc., BEE-1133; BEL-1133
Golden Eagle Ref. Co., BEE-1383
H. L. Mills Pet. Products, DES-2997
Hi-Plains Alcohol Fuels, Inc., BEE-0965
Kenneth H. White Co., BEE-1184
Marcum Oil Co., BEE-0483
Meharry Medical College, BFA-0444
Powell Oil Co., Inc., DEE-3120
Rookwood Oil Terminals, Inc., BEE-0102
School Bd. of Sara-Sota Cty., FL, BEE-1114
Speed & Briscoe, Auto/Truckstop, Inc., BEE-1293
Truckstops Corp. of America, DST-6966
Union Oil of Cal., DEA-0562
Wagner & Brown, DEE-3576
Washington Street Exxon, BRO-1170
Wayne G. Aarestad, Ltd., BEE-0723
Western Ref. Co., BEL-0063

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

October 20, 1980.

[FR Doc. 80-33291 Filed 10-23-80; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 1 Through September 5, 1980

During the week of September 1 through September 5, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Bracewell & Patterson, Washington, D.C., BFA-0433, freedom of information

Bracewell & Patterson filed an Appeal from a determination issued on remand by the Office of Regulations and Emergency Planning of the Economic Regulatory Administration. The determination concerned a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE rejected the firm's contention that the withheld material should be released without review *de novo*. The DOE determined that portions of one document initially withheld under Exemption 5 should be released since the portions consisted of nonexempt factual material. The DOE also ordered an immediate further search for certain withheld material that had been misplaced since the issuance of the determination on remand.

Gulf Oil Corporation, Philadelphia, Pennsylvania, DEA-0578, motor gasoline

Gulf Oil Corporation filed an Appeal of an assignment order issued on August 10, 1979 by the ERA Region I office. The order assigned Gulf as the base period supplier for Rymes Heating Oils, Inc. In considering the

Appeal, the DOE found that Gulf's allegation that the assignment order erroneously found that a supplier-purchaser relationship existed between Gulf and Rymes was factually incorrect. The DOE also found that ERA's failure to consider a submission made by Gulf prior to the issuance of the assignment order was a harmless error. The Appeal was therefore denied.

William J. Mutryn, Washington, D.C., BFA-0439, freedom of information

William J. Mutryn filed an Appeal from a partial denial by the Acting Administrator for Enforcement of the ERA of a request for information submitted under the Freedom of Information Act. The DOE determined that the Acting Administrator had properly withheld each of 14 documents except for one sentence which had been reviewed and released in a prior OHA decision. Accordingly, Mr. Mutryn's appeal was denied except for the previously released sentence which was ordered to be supplied.

Sunland Refining Company, Bakersfield, California, BEA-0280, refined products

The Sunland Refining Company filed an Appeal from an Assignment Order which the Economic Regulatory Administration issued to it. In considering the Appeal, the DOE concluded that the ERA order should be remanded to that body in order to clarify ambiguities in the order. Accordingly, Sunland's Appeal was granted.

Remedial Orders

Cities Service Company, Tulsa, Oklahoma BRO-0094, BRD-0094, BRH-0094, motor gasoline

Cities Service Company objected to a Proposed Remedial Order which the Southwest Refiner District, Office of Special Counsel, issued to the firm on August 21, 1979. In the Proposed Remedial Order, the OSC determined that Cities had violated the provisions of 10 CFR § 211.05(d) by refusing to assume all of the base period obligations to supply the E. L. Morgan Company, Inc. with motor gasoline. In considering Cities' Statement of Objections, the DOE concluded that § 211.105(d) did not permit Morgan to designate a sole base period supplier, since Morgan's branded supplier on February 28, 1979 was the same as its branded supplier during the base period. The DOE therefore concluded that the Proposed Remedial Order should be rescinded. Cities' Motion for Discovery and Motion for Evidentiary Hearing were dismissed as moot.

Gulf Oil Corporation, Houston, Texas, BRO-0116, crude oil

Gulf Oil Corporation objected to a Proposed Remedial Order (PRO) which the Northeast District Office of Special Counsel of the Department of Energy issued to the firm on July 25, 1979. Subsequent to the firm's filing of its Statement of Objections, the DOE Office of Special Counsel requested that the PRO be dismissed without prejudice so that matters covered in the PRO could be combined with other matters still under investigation. After reviewing the entire record in the proceeding, the DOE concluded that Gulf would not be subjected to undue prejudice if the PRO was dismissed without prejudice. Accordingly, the PRO was dismissed without prejudice.

Whittier Fuel and Marine Corporation, Whittier, Alaska, DRO-0110, heating oil

Whittier Fuel and Marine Corporation (Whittier) objected to a Proposed Remedial Order which DOE Region X issued to the firm on August 22, 1978. In the Proposed Remedial Order, Region X found that the firm had overcharged three purchasers of heating oil by a total of $32,281, exclusive of interest. In its Statement of Objections, Whittier claimed that Alaska Transportation Commission tariffs required the firm to charge a price in excess of its maximum lawful price and, second, that the firm should not be required to refund overcharges to one customer who had an outstanding debt to Whittier, reduced to judgment, for heating oil delivered but never paid for. The DOE determined that Whittier's first claim was without merit, but that the firm's second claim required a modification of the Proposed Remedial Order. In this regard, the DOE ordered that the Proposed Remedial Order should be issued as a final Remedial Order after modification assuring that Whittier would not be required to refund overcharges for heating oil delivered but never paid for.

Requests for Exception

Alger Oil Company, Rising Sun, Maryland, BEE-0920, gasohol

Alger Oil Company filed a request for Exception from the Motor Gasoline Allocation Regulations. The exception request was finalized on September 3, 1980. The decision granted relief on the basis that the Allocation Regulations impede Alger's gasohol blending and marketing operations and thereby cause the applicant to experience a gross inequity.

American Motohol Supply Corporation, Washington, D.C., DEE-7203, motor gasoline

American Motohol Supply Corporation (Motohol) filed for an exception from the provisions of 10 CFR Part 211. In this filing the firm requests an allocation and supplier of unleaded motor gasoline for use in the production and marketing of gasohol. In considering the request, the DOE found that the firm had failed to make the required showing that no unleaded gasoline obtained as a result of exception relief would be blended with alcohol of foreign origin. Accordingly, the firm's request was denied.

Bay Village Marathon, Bay Village, Ohio, BEO-0545, motor gasoline

Bay Village Marathon filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denided.

Consumer Service Stations, Tulsa, Oklahoma, BEE-0259, motor gasoline

On October 30, 1979 Consumer Service Stations (Consumer) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought a separate allocation of motor gasoline for the purpose of blending regohol and gasohol. In considering the request, the DOE found that exception relief was necessary to prevent a gross inequity under application DOE allocation regulations. Accordingly, Sun Oil Company of Pennsylvania and Getty Refining and Marketing Company, the base period suppliers of Consumer, were each selected to furnish Conumer with additional volumes of motor gasoline for the purpose of blending gasohol and regohol for the twelve month period beginning the effective date of the Decision.

Drake Shell Service, St. Petersburg, Florida, DEE-6689, motor gasoline

Drake Shell Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

George Noblett Oil Company, Kilmarnock, Virginia, BEO-0459, motor gasoline

The George Noblett Oil Company filed an Application for Exception in which it requested an increase in the base period allocation of gasoline of a retail sales outlet which it operates in White Stone, Virginia. The firm based its request upon the fact that it had contracted to renovate the White Stone location in October 1978 and that the present gasoline allocation was insufficient to meet the expenses of the renovated outlet. After reviewing the financial information which the firm submitted, the DOE found that operations at the location would generate a substantial monthly net profit. Under these circumstances, the DOE concluded that exception relief was not warranted.

T. G. Heinen, Tulsa, Oklahoma, DEO-0409, motor gasoline

T. G. Heinen filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship or gross inequity as a result of DOE regulations. Accordingly, exception relief was denied.

J&L Towing, Inc., Englewood, N.J., BEO-1036, motor gasoline

J&L Towing, Inc. filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary for J&L to realize the economic benefits of its capital investments in its station. Accordingly, exception relief was granted. The important issues discussed in the Decision and Order are similar to those in *Leo Anger, Inc.*, 4 DOE ¶ 81,037 (1979).

North American Supply, Inc. T/A Biviano's Arco, Latrobe, Pa., DEE-7178, motor gasoline

North American Supply, Inc. T/A Biviano's Arco (Biviano) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period use of motor gasoline. In considering the request, the DOE issued a consolidated Proposed Decision and Order which tentatively concluded that the firm's application should be denied on the basis of the precedent established in *Union Petrochem*, 5 DOE ¶ 81,255 (1980). The firm filed a Statement of Objections in which it contended that as a result of the provisions of a new lease with Arco, Biviano was experiencing a serious financial hardship. The DOE determined that the further transaction described by Biviano also did not form a basis upon which exception relief could be granted under the *Union Petrochem* precedent. The DOE also rejected Biviano's claim that its community was experiencing a gross inequity as a result of the DOE motor gasoline allocation program. Accordingly, exception relief was denied.

O'Meara Brothers, New Orleans, La., BXE-1081, crude oil

O'Meara Brothers (O'Meara) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit O'Meara to sell at market prices 76.71 percent of the crude oil produced from the Louisiana State Lease 2192.

Pennzoil Producing Co., Houston, Tex., BXE-1179, crude oil

Pennzoil Producing Company (Pennzoil) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Pennzoil to sell at market prices 100 percent of the crude oil produced from the Woodruff Sand Waterflood Unit.

Sheehan Oil Co., Norman, Okla., DEE-5561, motor gasoline

The Sheehan Oil Company filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its current motor gasoline allocation is unrepresentative of its normal operating posture. Accordingly, exception relief was denied.

Shop-a-Snak Food Mart, Childersburg, Alabama, BEO-0815, motor gasoline

Shop-a-Snak Food Mart filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation requlations. Accordingly, exception relief was denied.

Tags Service, Soldotna, Alaska, BEO-0590, motor gasoline

Tags Service filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Tags had failed to show that either the firm or the community in which it was located was experiencing a serious hardship or a gross inequity as a result of the DOE's Allocation Regulations. Accordingly, exception relief was denied.

Steve's Car Wash, Topeka, Kansas, BEO-0645, motor gasoline

Steve's Car Wash filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a result of DOE regulations. Accordingly, exception relief was denied.

Terry's Texaco, San Mateo, California, BEO-0506, motor gasoline

Terry's Texaco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any operating difficulties the firm might be experiencing were attributable to its own discretionary business decisions. Accordingly, exception relief was denied.

Petition for Special Redress

Northern Natural Gas, Inc., UPG, Inc., Omaha, Nebraska, BSG-0004, BSG-0005, natural gas, liquids

On November 14, 1979 and November 19, 1979, Northern Natural Gas, Inc. and its wholly-ownded subsidiary, UPG, Inc. filed Petitions for Special Redress in which the firms requested that Notices of Probable Violation that had been issued to them to rescinded on the basis of factual and legal errors. In considering the requests, the DOE found that the firms should pursue normal administrative procedures to contest the DOE's enforcement actions. Accordingly, the Petitions for Special Redress were denied.

Supplemental Orders

Arizona Fuels Corporation, Washington, D.C., DEX-0056, crude oil

The DOE reviewed the entitlement exception relief granted to Arizona Fuels Corporation during its 1976 and 1977 fiscal years. On the basis of a review of the actual operating results that the firm achieved, the DOE found that Arizona Fuels received $429,935 in excess exception relief for its 1976 fiscal year and that the firm received $181,287 in excess exception relief for its 1977 fiscal year. Accordingly, the DOE directed that Arizona Fuels purchase $50,935 of entitlements during each of the twelve months following the date of issuance of this Decision and Order, for a total repayment of $611,222.

Motion for Discovery

Batson Petroleum Corporation, d.b.a. Tiny Town Truckstops, Guthrie, Kentucky, DRD-0136, motion for discovery

Batson Petroleum Corp. d.b.a. Tiny Town Truckstops (Batson) filed a Motion for Discovery in conjunction with an enforcement proceeding pending against the firm involving alleged overcharges on the retail sale of No. 2 diesel fuel. In its Motion, Batson sought discovery of information relating to the preparation of the Proposed Remedial Order issued to it, including information on the Office of Enforcement's "netting" policy, its policy on assessing interest, and any audit workpapers not previously released to the firm. In considering the Motion, the DOE determined that one of Batson's requests with respect to "netting" policy and its claim with respect to audit workpapers should be granted and it was so ordered. The DOE, however, denied the Motion in all other respects.

Office of Enforcement, Washington, D.C., DRX-0144, motor gasoline

The Office of Enforcement (Enforcement) filed an Application for Modification or Rescission of a Decision and Order which was issued to Glenn Martin Heller regarding an Application for Stay that Mr. Heller had filed. *See Glenn Martin Heller*, 3 DOE ¶ 82,010 (1979). In the *Heller* stay decision, the DOE stayed an Interim Remedial Order for Immediate Compliance that Enforcement had issued to Mr. Heller. In considering the Application for Modification, the DOE determined that the controversy between Mr. Heller and Enforcement was now moot since Enforcement objected only to the language contained in the *Heller* stay decision and not to the result in that case. The DOE therefore dismissed Enforcement's modification request.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

American Agri-Fuels, BEN-1255, Kansas City, MO
Dollar Rent-a-Car, BEN-0051, Frisco, CO
Scott Boulevard Chevron, BEN-0453, Decatur, GA

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Case No., and Location

Cities Service Co./Sage Creek Refining Co., BEJ-0125, Tulsa, OK

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No. and Location

Kenwood Texaco, DEO-0276, Duluth, MN
Rancho Super Car Wash, Inc., BEO-0271, San Francisco, CA

Reynolds Superette, BEO-0262, Timmonsville, SC
Victor A. Saphiloff, BEO-0540, Orange, CA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Appalachian Regional Hospitals, BEE-1264
Brian McMahon, DEE-5816
C.M. Dining, Inc., DRO-0053; DRD-0053
Chevron USA, Inc., BED-0129; BEJ-0129
Guan Oil and Refining Company, Inc., BEL-1247
Jako Distributors, BEE-1004
Pecora Oil Company, BEE-1207
Sherer Oil Company, Inc., BEE-1084
Ted's Arco (Lavassani), BRO-1186
Town of Georgetown, DEE-6152
Valley Petroleum Distributors, Inc., BEE-1205
Vic & Lou's Union, BRT-0090

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Acting Director, Office of Hearings and Appeals.
October 20, 1980.

[FR Doc. 80-33297 Filed 10-23-80; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of September 15 through September 19, 1980

During the week of September 15 through September 19, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,
Acting Director, Office of Hearings and Appeals.
October 20, 1980.

A. Smith Bowman, Distillery, Sunset Hills, Virginia, BEE-1096, Gasohol

A. Smith Bowman Distillery (Bowman) filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Bowman to receive an allocation of unleaded gasoline for use in the production of anhydrous alcohol which will be blended with additional unleaded gasoline to produce gasohol. On September 18, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Ayers Oil Company, Canton, Missouri, BEE-0402, Gasohol

Ayers Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Ayers to receive an increase in its base period allocation of motor gasoline for the purpose of producing gasohol. The Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Belco Petroleum Corporation, Houston, Texas, BXE-1143, crude oil

Belco Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the White River Unit Lease, for the benefit of the working interest owners, at market price levels. On September 16, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's White River Unit Lease.

Brock Exploration Corp., Washington, D.C., BEL-1351, BEE-1351, Crude oil

Brock Exploration Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, with the Office of Hearings and Appeals of the Department of Energy. The exception request, if granted, would permit the firm to classify the crude oil that it produces from one of its crude oil properties as "imputed newly discovered crude oil." On September 16, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that exception relief should be approved.

Cornell Oil Company, Washington, D.C., BEE-1151, Crude oil

Cornell Oil Company filed an Application for Exception from the provisions of 10 CFR 212.78 with the Office of Hearings and Appeals of the Department of Energy. The exception request, if granted, would permit Cornell to continue to utilize the provisions of 10 CFR 212.76 for one of its unitized properties. On September 15, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that the exception application should be dismissed.

Fannon Petroleum Services, Inc., Alexandria, Virginia, BXE-1318, Gasohol

Fannon Petroleum Services, Inc., filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Fannon to receive an increased allocation of unleaded motor gasoline to produce and market gasohol. On September 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gasol, Incorporated, Hillsboro, Oregon, BEE-0961, Gasohol

Gasol, Inc., filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Gasol to receive an increased allocation of unleaded gasoline for gasohol production. On September 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Glen Ellyn Standard, Glen Ellyn, Illinois, BEE-0607, Gasohol

Glen Ellyn Standard filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Glen Ellyn to receive an increased allocation of unleaded gasoline for gasohol production. On September 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Glenn Martin Heller, Boston, Mass., DEE-2142, motor gasoline

Glenn Martin Heller filed filed an Application for Exception in which he requested that he be permitted to charge prices for motor gasoline at his retail outlet which exceed the levels permitted by § 212.93 of the Mandatory Petroleum Price Regulations. On September 15, 1980, the DOE issued a Proposed Decision and Order which tentatively denied the Heller exception request.

Gulf Oil Corp., Houston, Tex., BXE-1204, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR

Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Kirby Lumber Company "C" Lease for the benefit of the working interest owners at upper tier ceiling prices. On September 19, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Kirby Lumber Company "C" Lease.

Hoffman Corner Oil Co., White Bear Lake, Minn., BEE-0610, gasohol

Hoffman Corner Oil Co. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Hoffman to receive an increased allocation of unleaded gasoline for gasohol production. On September 19, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Laketon Asphalt Refining, Inc., Evansville, Ind., BXE-1260, crude oil

Laketon Asphalt Refining, Inc., filed an Appliction for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Laketon of a portion of its entitlement pruchase obligations during the period September 1980 through February 1981 for crude oil receipts and runs to stills during the period July 1980 through December 1980. On September 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Murray Oil Co., Ash Grove, Mo., BEE-0507, gasohol

Murray Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Murray to receive an increased allocation of unleaded gasoline for the purpose of marketing gasohol. On September 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petroleum, Inc., Wichita, Kan., BXE-0992 Crude oil

Petroleum, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Crowder Lease for the benefit of the working interest owners at market price levels. On September 16, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Crowder Lease.

Pro Tec, Inc., Austin, Tex., DSG-0026, propane

Pro Tec, Inc., filed an Application for Exception from the provisions of 10 CFR, Parts 211 and 212. The exception request, if granted, would permit Pro Tec to charge a higher price for propane than would otherwise be permitted by DOE regulations. The firm also requested several other forms of relief in connection with its proposed establishment of Propane Extraction Units. On September 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Southwestern Refining Co., Inc., Washington, D.C., BLE-1268, crude oil

Southwestern Refining Company, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would relieve Southwestern of a portion of its entitlement purchase obligations during the period September 1980 through 1981 for crude oil receipts and runs to stills during the period July 1980 through December 1980. On September 16, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Standard Oil Co. of Ohio, Cleveland, Ohio, BEE-1123; carbon dioxide

Standard Oil Company of Ohio (Sohio) filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2). The exception request, if granted, would permit Sohio to exclude the carbon dioxide which it produces and sells at its Toledo, Ohio refinery from its calculations in computing its maximum lawful prices for price controlled refined products. On September 17, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

State of New Mexico, Santa Fe, N. Mex., BEE-0944, crude oil

The State of New Mexico filed an Application for Exception from the provisions of 10 CFR 211.63. The exception request, if granted, would permit New Mexico to sell its royalty interest crude oil to purchasers of its own choosing. On September 15, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., Location

Bill's Amoco, BEX-0088, Lima, PA
Colonial Shell Service, BXE-0603, Wallingford, CT
Davison Dawn Donuts, DEE-7758, Washington, DC
First Texarkana Co., DEE-4763, Texarkana, TX
Mousa's Gulf, S.C., DEE-7304, Danbury, CT

[FR Doc. 80-33298 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

Objections to Proposed Remedial Orders Filed Week of September 15 through September 19, 1980

During the week of September 15 through September 19, 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 CFR 205.194 on or before November 13, 1980. 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.

October 20, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Notices of Objection

Sharon Heights Shell, Menlo Park, Calif., BRO-1311, motor gasoline

On September 15, 1980, Sharon Heights Shell, 125 Sharon Park Drive, Menlo Park, California 94025 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on August 14, 1980. In the PRO the Western District found that during August 1, 1979 to November 8, 1979, the firm committed pricing violations of $11,116.00 in connection with the sale of motor gasoline in the State of California.

Tom's Coffee Tree, Vacaville, Calif., BRO-1310, gasoline

On September 15, 1980, Tom's Coffee Tree Chevron, 300 Orange Drive, Vacaville, California 95688 filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on August 14, 1980. In the PRO the Western District found that during August 1, 1979 to November 20, 1979, the firm committed pricing violations of $2,878.84 in connection with the sale of motor gasoline in the State of California.

[FR Doc. 80-33292 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 1642-2; OPTS-51111A]

Alkanedioic Acids Mixed Alkanolamines Salt; Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for a premanufacture notice (PMN) for which the review period commenced on July 24, 1980, under section 5(c) of the Toxic Substances Control Act (TSCA). The generic identity of the substance covered by PMN P80-182 is alkanedioic acids mixed alkanolamines salt.

The review period for this substance is now scheduled to end on January 19, 1981. The PMN described a chemical substance that would be manufactured for a use claimed confidential. The submitter of the PMN also claimed his identity to be confidential along with environmental release, impurities, processing, byproducts, disposal, and production volume information.

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Environmental Protection Agency, Room 210 East Tower, 401 M St. SW., Washington, D.C. 20460 (202-426-3936).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA any person who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA prior to commencement of manufacture or import. In general, section 5 provides that EPA must complete its review of a PMN within 90 days of its receipt by the Agency. However, under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt.

EPA issued proposed rules to implement the premanufacture notification program published in the Federal Register of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed regulation addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period. Although EPA has not yet promulgated these rules, the example in the proposal that would apply in this case is that:

EPA has reviewed the notice and has determined that there is a significant possibility that the chemical will be regulated under section 5(e) or section 5(f) of the Act, but the Agency is unable to initiate regulatory action within the initial 90-day period (44 FR 2273).

Review to Date

EPA's initial evaluation of the subject PMN substance entailed review of information that the manufacturer supplied in the PMN and in subsequent submissions to EPA. EPA also conducted literature searches on the PMN substance and on structurally similar substances, i.e., structural analogues.

Using the information, EPA assessed seven major areas of potential concern: process chemistry, uses, worker and consumer exposures, environmental releases, health effects, environmental fate, and ecological effects. The Agency also considered other factors, such as economics and impact on technological innovation, that are not directly associated with the assessment of the risks that the PMN substance may present to human health and the environment. When EPA completed this initial screening of the substance, the Agency concluded that it needed to conduct a more thorough review of certain aspects to focus on specific areas of concern.

The initial results of these assessments are summarized below:

1. EPA is concerned about potential hazards that the substance may pose to human health. The substance can be expected to generate a chemcial known to be a carcinogen. The information provided by the manufacturer in the PMN and in subsequent communications has not been sufficient to assess the impact of this substance on human health.

2. EPA can reasonably assume that a significant number of workers, particularly in processing and use operations, will be exposed to the toxic substances that are likely to be generated. Such contact will involve both dermal and inhalation exposure routes.

3. The absence of adequate information on the reasonable assumption that the mechanism for formation of the toxic substances is enhanced under use conditions, the high toxicity of the substances, and the potential for significant human exposure give rise to the increased possibility that the PMN chemical will be regulated under section 5 of the Act.

Extension of the Review Period

Therefore, EPA has entered the PMN into another series of analyses, the Detailed Review Process. During the Detailed Review, Agency staff will conduct further evaluations and assessments of the following: (1) The mechanism for formation of the highly toxic chemicals associated with processing, use, and disposal of the PMN substance and (2) the nature and extent of risks to human health posed by the formation of these toxic chemicals, and (3) the exposure associated with the toxic chemicals during processing, use, and disposal.

On the basis of the cited concerns raised during EPA's evaluation of the PMN substance, the significant possibility of further regulation under section 5, and because of the limited time before the end of the review period for the substance (which closes on October 21, 1980), EPA has determined that good cause exists to extend the notice period for an additional 90 days, until January 19, 1981.

EPA needs additional time to assess this chemical substance to determine if regulatory controls are appropriate. During the additional time period EPA will: (1) evaluate the need for additional data on the substance, (2) determine the need for regulatory control in light of EPA's concerns about the substance, and (3) examine possible control options. Extension of the notice period preserves EPA's authority to initiate a regulatory action under section 5 of TSCA if the Agency concludes that such an action is appropriate.

The PMN, summaries of communications between the submitter and EPA, and other written material, are available for public inspection in Room 447, East Tower, at the EPA Headquarters address given above. The public record is available from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. All information that the manufacturer has claimed to be confidential has been deleted from the documents in the public record.

Dated: October 20, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-33179 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-31-M

[A-1-FRL-1641-6]

Conditional Extension of Prevention of Significant Deterioration Permit

AGENCY: Environmental Protection Agency.

ACTION: Notice of conditional extension of permit.

SUMMARY: EPA hereby gives notice that it conditionally extends until April 15, 1981, the Prevention of Significant Deterioration permit issued to the Pittston Company on August 18, 1978.

DATES: This conditional extension takes effect on the date of signature.

FOR FURTHER INFORMATION CONTACT: Robert C. Thompson, Office of Regional Counsel, U.S. EPA, 2203 JFK Federal Building, Boston, MA 02203, (617) 223-5246.

SUPPLEMENTARY INFORMATION:

Background.

On August 18, 1978, EPA granted a Prevention of Significant Deterioration of Air Quality (PSD) permit to the Pittston Company (the Company) upon an application pending since April 1977. 43 FR 40056 (September 8, 1978). Under that permit, the Company had until February 18, 1980 to commence construction of its proposed project, else the permit would expire under 40 CFR 52.21(r)(2) [40 CFR 52.21(s)(2) (1978), 40 CFR 52.21(e)(3) (1977)].

Pittston requested an extension of its permit on December 21, 1979, arguing that the permit should not be allowed to lapse when delays in construction were beyond the Company's control. In support, the Company cited that it had stipulated not to commence construction until the First Circuit Court of Appeals completes reviewing the cases before it which challenge the validity of the permit (*Carr v. EPA*, Nos. 78-1443, 78-1484, 78-1486, and 78-1487), and that an administrative appeal from denial of the Company's NPDES permit was still pending. EPA agreed with the Company, and on February 15, 1980, exercised its authority under 40 CFR 52.21(r)(2) to extend Pittston's PSD permit for six months, until August 18, 1980. The extension, however, was conditioned on EPA amending the applicable grandfather provision, 40 CFR 52.21(i)(4), so as to extend beyond August 18, 1980 the deadline contained in that provision for Pittston to commence construction. The grandfathering amendment was proposed by EPA on July 20, 1979, 44 FR 42727, but final rulemaking action had not been taken at the time of Pittston's request.

On August 5, 1980, EPA received a request from the Company for a second extension of its permit, which was due to expire on August 18, 1980. The company requested that the extension run for eighteen months from a final, non-reviewable order in the cases pending before the First Circuit mentioned above. EPA decided that potential public interest in the request warranted a public comment period until September 18, 1980, with response due from EPA by October 18, 1980. The Agency granted an interim extension of the permit until October 18, 1980 to preserve the status quo during the comment period.

Response and Decision

Commenters submitted arguments on both sides of this issue. EPA's decision, after reviewing the comments, is to grant a conditional extension of the Pittston Company's PSD permit until April 18, 1981.

EPA is persuaded by the continued force of the argument that it has been effectively impossible for the Company to commence construction since it obtained its permit in August 1978, due to restrictions and delays for which it is not responsible. The Company is still bound by its stipulation not to commence construction during the pendency of the cases before the First Circuit. Pittston's NPDES appeal has still not been decided, and the grandfathering issue has still not been resolved. Thus, none of the bases for Pittston's first extension in February 1980 has changed. Regulation 52.21(r)(2) allows EPA to extend a permit for good cause. It is the Agency's view that impossibility of commencing construction such as exists here constitutes good cause, and EPA therefore exercises its authority under § 52.21(r)(2) to extend Pittston's permit.

The Roosevelt Campobello International Park Commission (the Commission) suggests that granting Pittston's request to extend the permit until eighteen months after the termination of litigation would in effect decide the issue of whether, in this case, to adopt the proposed grandfather rule amendment. However, EPA is extending the permit for only six months and on the condition that the grandfathering amendment is adopted. EPA simply seeks to preserve the status quo until the grandfathering issue can be properly decided. EPA rejects the Company's request for an extension until eighteen months after a final, non-reviewable order in the cases pending before the First Circuit, because allowing that request could extend the life of the permit for as much as five years, and during such a lengthy period of time circumstances affecting the interests of all parties might substantially change, making such an extension inequitable.

Two commenters argue that extending Pittston's permit violates Congress' intent to have the 1977 Amendments to the Clear Air Act in effect and applicable to sources which have not commenced construction at the latest by the date that the state's PSD SIP revision is approved. This argument reflects a misunderstanding of the effect of a permit extension. The extension issue is completely separate from the question whether or not the requirements of the 1977 Amendments apply to Pittston's refinery. Exemption from those requirements will occur only if EPA amends the applicable grandfathering provision to encompass Pittston's project, regardless of the continued validity of Pittston's original permit granted under the pre-1977 regulations. Therefore, the argument really runs only to the grandfathering decision and has no bearing on the question being considered here.

The Natural Resources Council of Maine (NRCM) also charges that the only real reason for granting the extension is to allow the Company to escape the requirements of the 1977 Amendments to the Clean Air Act. However, as explained above, the issues of exemption and extension are completely separate, and granting an extension of its PSD permit will not decide whether the Company must meet the requirements of the 1977 Amendments in constructing its project. The exemption decision will be made only upon resolution of the grandfathering issue.

The NRCM also argues that Pittston's request should be denied since lengthy extensions would undercut the policy behind requiring construction to commence within a reasonable time after receiving a permit. See 45 F.R. 52679 (August 7, 1980). According to NRCM, this requirement reflects a concern that a permit holder might harm the beneficial development of an area by indefinitely delaying construction of its project, while simultaneously holding a monopoly over the right to an approved increment of air pollution, thereby precluding other competing uses for that increment which might bring more immediate economic return. NRCM argues that the extension requested by Pittston would have this detrimental effect on Eastport's economic growth. EPA, however, disagrees that it would. Any potential harm to Eastport's economic development due to this extension will be minimal since the extension is for only six months. In addition, even if EPA were to agree that it should take competing uses into account, it would be unable to do so on the record before it now, as the NRCM has failed to show any concrete evidence of the existence of one.

The Commission also submits that the Company's resources would be better spent obtaining a new permit under the Maine State Implementation plan (SIP) rather than proceeding with the expensive and time-consuming process of defending the original permit. This argument is irrelevant to the issue being considered here. The extension request presents merely the narrow question of whether or not good cause for an extension exists. EPA has found good cause on equitable grounds and therefore grants a short-term conditional extension.

Several commenters suggest that the extension request should be denied because in their opinion the original permit was based on insufficient onsite data and improper computer modeling techniques. EPA submits, however, that the proper procedure for challenging the validity of the original permit is not to seek denial of an extension, but to seek direct judicial review of the permit itself, as has been done in the cases cited above which are pending before the First Circuit.

In recognition of the various competing views and interests involved in this issue EPA hereby extends the Company's PSD permit until April 18, 1981 on the condition that EPA adopts the proposed amendment to the applicable grandfather provision.

This conditional extension is a "locally or regionally applicable" "final action" within the meaning of Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1). As a result, it is reviewable only in the U.S. Court of Appeals for the First Circuit. Any petition for review must be filed on or before December 23, 1980.

Dated: October 15, 1980.

William R. Adams, Jr.,

Regional Administrator, U.S. Environmental Protection Agency Region I.

[FR Doc. 80-33177 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-26-M

[PH-FRL 1641-1; OPP-180506]

Idaho and Washington State Departments of Agriculture; Issuance of Specific Exemptions for Dinoseb on Lentils

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Idaho and Washington State Departments of Agriculture (hereafter referred to as "Idaho," "Washington," or the "Applicants") to use dinoseb as a desiccant on 30,000 acres of lentils in the northern counties of Idaho and 80,000 acres of lentils in Spokane and Whitman Counties, Washington. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemptions expire on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460 (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicants, much of the lentil-growing region of northern Idaho and eastern Washington has been covered with up to two inches of ash fallout from the volcanic eruption of Mt. St. Helens in May. This condition, combined with extremely cool, wet spring weather, has resulted in excessive lentil vine growth and late season weed infestations. The excessive vine growth and ash fallout have resulted in a serious harvesting problem, the Applicants report. Lentils are usually swathed prior to harvesting in order to avoid shattering of the lentil, allow for uniform harvesting of the crop, and to dry up the weeds. The Applicants state that the presence of one-half to two inches of ash in lentil fields is of serious concern due to the health hazard of the ash to operators of swathing machines, damage to harvesting equipment, and dust on the edible crop.

Currently there are no herbicides registered for pre-harvest desiccation of lentils. The Applicants state that research data indicate that dinoseb is an effective pre-harvest desiccant. Idaho claims that crop losses due to the effect of volcanic ash on the quality of lentils harvested for market could reach $10 million if normal harvesting procedures are used. Washington estimates that losses could reach $38 million in that State.

EPA has determined that residues of dinoseb from the proposed use should not exceed 0.1 part per million (ppm) in or on lentils. This level has been judged to be adequate to protect the public health. EPA anticipates no unreasonable hazard to man or the environment from the proposed use.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Red-Top Contact Weed Killer [dinoseb (2-sec-butyl-4, 6-dinitrophenol) as the phenol formulation], EPA Reg. No. 2935-355, may be applied at a rate of two quarts per acre;

2. Applications will be made by State-licensed commercial applicators or qualified growers. In Idaho, University of Idaho Extension Service personnel, and in Washington, Washington State University Extension Service personnel, will provide directions and pertinent information to applicators and growers;

3. Applications will be made with 1-2 quarts of Red-Top Mor-Act Adjuvant in 30-50 gallons of water by ground equipment and 7-10 gallons of water by air;

4. A single application may be made and a 10-day pre-harvest interval is imposed;

5. A maximum of 30,000 acres of lentils in the northern counties of Idaho and 80,000 acres in the Washington counties named above may be treated;

6. A total of 15,000 gallons of product may be applied in Idaho. In Washington, a total of 40,000 gallons of product may be applied;

7. Treated lentil fields may not be grazed and crop forage may be not be used for feed purposes;

8. All applicable directions, precautions, and restrictions on the EPA-registered label must be followed;

9. Residues of dinoseb from the above use are not expected to exceed 0.1 ppm in or on lentils. Lentils with residues not in excess of this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of these actions;

10. The EPA shall be informed immediately of any adverse effects resulting from the use of dinoseb in connection with these exemptions; and

11. Idaho and Washington shall each be responsible for ensuring that all of the provisions of its specific exemption are met and each must submit a report summarizing the results by December 31, 1980.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 16, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-33172 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1641-3; OPP-180509]

Kentucky; Crisis Exemption for Ridomil on Tobacco

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Kentucky Department of Agriculture (hereafter referred to as "Kentucky") availed itself of a crisis exemption for the use of Ridomil 2E on tobacco in the northeastern counties of Kentucky for the control of blue mold.

DATE: Kentucky initiated the crisis exemption on August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460 (202-426-0223).

SUPPLEMENTARY INFORMATION: On August 7, 1980, Kentucky informed EPA that it had initiated a crisis exemption for the use of Ridomil 2E, a systemic fungicide which contains the active ingredient methyl ester of N-(2,6-dimethylphenyl)-N-(methoxyacetyl)alanine, on tobacco to control blue mold. Kentucky reported that it declared the crisis as soon as it discovered that the blue mold infestation was reaching epidemic proportions in the northeastern counties of the State and the infestations were moving westward. According to Kentucky, dry weather and sunlight had slowed the disease down in most of the State, but that the State was anticipating several days of heavy rainfall as a result of Hurricane Allen. According to Kentucky, no registered pesticide had the efficacy or mode of action as a foliar spray to protect the tobacco in case of extended rainy periods as well as provide protection from the existing outbreak.

Ridomil was used at a rate of 1 pint of product in 40-50 gallons of water per acre as a foliar spray. Application was made on a 7-day spray schedule until lesions stopped sporulating, with a maximum of 4 applications. Farmers were encouraged to cut, wilt, and house tobacco if infection was in the crop and the crop was within 14 days of harvest. A 14-day pre-harvest interval was imposed. Kentucky indicated that the duration of the crisis was solely dependent upon weather conditions.

(Sec. 18 as amended 92 Stat. 819 (7 U.S.C. 136))

Dated: October 16, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-33174 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1641-2; OPP-180507]

Maine; Crisis Exemption for Ridomil on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Maine Department of Agriculture (hereafter referred to as "Maine") has availed itself of a crisis exemption for the use of Ridomil to control late blight on a maximum of 10,000 acres of potatoes. Because the program was expected to last for more than 15 days, Maine submitted a request for a specific exemption for a continuation of this use.

DATE: Maine anticipates that the need for the program will extend until September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460 (202-426-0223).

SUPPLEMENTARY INFORMATION: Maine reports that it was in the process of requesting a specific exemption for the use of Ridomil, which contains the active ingredient methyl ester of N-(2, 6-dimethylphenyl)-N-(methoxyactetyl) alanine, for use on potatoes to control late blight, when it became apparent that there was insufficient time for a specific exemption and so immediately initiated a crisis exemption on August 19, 1980. According to Maine, moisture and temperature conditions during this growing season have resulted in a severe infection of late blight fungus on approximately 10,000 acres of potatoes. Maine reports that there are seven potato late blight fungicides currently available in that State. However, they must all be present in sufficient concentration on all parts of the plant prior to the arrival of spores of the late blight fungus to be effective and all have a residual effective life of seven days, or less, during periods of heavy rain. This means the pesticides would have to be reapplied whenever weather conditions favored late blight infection. Maine states that Ridomil, a systemic fungicide, provides eradication properties as opposed to the preventive characteristics of the currently registered products. According to Maine, normal loss from late blight with preventive fungicides would be about 5 percent or less. With severe conditions prevailing this year and with use of preventive materials, Maine anticipates losses of 50 percent. With use of Ridomil, Maine estimates that losses could be held to less than 10 percent.

Maine is using Ridomil 2EC at a rate of ½ pint of the ingredient per acre at 7-day intervals for two eradicative treatments and then 2 or 3 protective applications at a somewhat higher rate at 14- to 17-day intervals. Application is being made by ground or air equipment. State-certified applicators, or persons under their direct supervision, are making the applications after personnel from the University of Maine Cooperative Extension Service have determined that conditions warrant treatment. Maine is requiring that the pesticide be kept out of lakes, streams, or ponds; that it may not be applied when conditions favor drift; and that care be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes. A pre-harvest interval of 7 days has been imposed. Maine has specified that treated fields may be replanted to potatoes immediately, but that other crops may not be planted in treated fields for 18 months. Maine has requested a specific exemption to continue the treatment.

(Sec. 18 as amended 92 Stat. 819 (7 U.S.C. 136))

Dated: October 16, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-33173 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1641-5; OPP-180501]

Maryland Department of Agriculture; Issuance of Specific Exemption for Azinphos-Methyl on Carrots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted the Maryland Department of Agriculture (hereafter referred to as the "Applicant") a specific exemption to use azinphos-methyl on 700 acres of carrots for processing in Maryland to control the carrot weevil. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The Specific exemption expires on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia Critchlow, Registration Division

(TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460, (202-426-0223.)

SUPPLEMENTARY INFORMATION: In the larval stage, the carrot weevil is a fat, white, legless grub causing irregular zigzag grooves over the surface or burrows through the roots of carrots. According to the Applicant, the carrot weevil injures seedling carrots and renders mature carrots unacceptable for marketing. When carrots are placed in cold storage, additional damage to the carrots may be caused by fungal organisms that enter through weevil feeding injuries.

There are no registered pesticides or nonchemical methods for control of the carrot weevil. Without an effective means of control, the Applicant estimates an economic loss of $360,000 on carrots.

The Applicant proposed to use Guthion 2S or Guthion 50 WP at a rate of one-half pound of the active ingredient (a.i.) azinphos-methyl per acre on processing carrots. Data are available to indicate that azinphos-methyl is efficacious in controlling the carrot weevil at this rate.

EPA has determined that residues of azinphos-methyl are not expected to exceed 0.5 part per million (ppm) on processing carrots. This level has been judged adequate to protect the public health. No unreasonable adverse effect to the environment is anticipated from this program.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following restrictions:

1. The products Guthion 2S, EPA Reg. No. 3125-123, or Guthion 50 WP, EPA Reg. No. 3125-193, are authorized for use on processing carrots. If an unregistered label is used, it must bear the identical precautions and restrictions which appear on the registered product label;

2. Application may be made by ground equipment at a rate of one-half pound a.i. in a minimum of 30 gallons of water per acre or, if aerial application is used, in a minimum of 2 gallons of water per acre at no less than 10-day intervals;

3. A maximum of six applications may be made;

4. A maximum of 700 acres of processing carrots may be treated;

5. A maximum of 2,100 pounds of azinphos-methyl may be applied;

6. A 35-day pre-harvest interval shall be observed;

7. Applications may be made by qualified private and commercial applicators;

8. Processing carrots with residues of azinphos-methyl not exceeding 0.5 ppm in or on them may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

9. The use of treated carrot tops for food or feed is prohibited;

10. All precautions, directions, and restrictions addressed on the label must be adhered to;

11. The EPA shall be immediately informed of any adverse effects resulting from this specific exemption;

12. The Applicant is responsible for ensuring that all provisions of this specific exemption are followed; and

13. A final report summarizing the results of this program must be submitted to EPA by December 31, 1980.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: October 10, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-33176 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1641-4; OPP-180508]

Oklahoma; Crisis Exemption for Botran on Peanuts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that on July 22, 1980, Oklahoma initiated a crisis exemption for the use of Botran 75W on a maximum of 15,000 acres of peanuts in ten counties in Oklahoma to control Sclerotinia blight. Oklahoma had previously requested a specific exemption for this use.

DATE: Oklahoma anticipates that the program will need to continue through September.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460 (202-426-0223).

SUPPLEMENTARY INFORMATION: Oklahoma initiated a crisis exemption for the use of Botran 75W, which contains the active ingredient 2,6-dichloro-4-nitroaniline, on peanuts in the counties of Bryan, Caddo, Carter, Grady, Hughes, Johnson, Lincoln, Love, Marshall, and Stephens, to control Sclerotinia blight. Oklahoma had requested a specific exemption for this use but had not yet received a response, and so initiated the crisis exemption.

Oklahoma reports that there are no currently registered pesticides for control of Sclerotinia blight on peanuts. According to Oklahoma, Botran is effective for this purpose and should present no adverse effects to the environment. According to Oklahoma, Sclerotinia blight caused an estimated reduction in yield of 3,599,460 pounds of peanuts, valued at $755,887 in 1979.

Oklahoma is using Botran as a preventive program, either applied once at the rate of 4 to 5 pounds of formulated product in 30 to 50 gallons of water per acre with a ground rig, or applied twice (split application) at the rate of 2 to 2½ pounds of formulated product in 30 to 50 gallons of water per acre applied at 14-day intervals. As a curative program Botran is being applied once after the disease appears at the rate of 4 pounds of formulated product in the first 30 minutes of the overhead irrigation set. Oklahoma has imposed a 30-day pre-harvest interval and is holding growers responsible for control of tail water or runoff water when it is a problem. Oklahoma has requested a specific exemption for the continuation of this program.

(Sec. 18 as amened 92 Stat. 819 (7 U.S.C. 136)

Dated: October 10, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-33175 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-40008; PH-FRL 1641-8]

Recertification of Private Applicators Certified Under a Federal Certification Program; Statement of Policy on Recertification Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice explains EPA's policy for approving or disapproving training courses designed for recertifying private applicators who are certified under a Federal pesticide applicator certification program.

EFFECTIVE DATE: This notice becomes effective October 24, 1980.

FOR FURTHER INFORMATION CONTACT:

1. John MacDonald, Senior Regional Coordinator (TS-770-M), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–472–9407).

2. Leo Alderman, Acting Chief, Toxics and Pesticides Branch, Region VII, Environmental Protection Agency, 324 East 11th St., Rm. 1500, Kansas City, Missouri 64106, (816–374–3036).
3. Lou Johnson, Chief, Toxic Substances Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln St., Suite 103, Denver, Colorado 80295, (303–837–3926).

SUPPLEMENTARY INFORMATION: The following is EPA's policy on approving or disapproving training courses for the recertification of private pesticide applicators. This policy is only applicable in Nebraska and Colorado or on Indian reservations in Nebraska and Colorado where EPA is conducting a Federal pesticide applicator certification program. This does not preclude individual States from adapting these criteria or variations of these criteria, if they so desire.

The Administrative Procedures Act (5 U.S.C. 553(b)) provides that the solicitation of comments is not required of Federal agencies for "interpretative rules, general statements of policy, or rules of agency organization, procedure or practice." EPA has determined that this notice falls within this exemption.

Nevertheless, interested parties in States in which EPA is conducting a Federal pesticide applicator certification program were given informal opportunity to comment on the criteria. Both EPA Regions VII and VIII sent draft copies of the criteria to the cooperating universities, the Nebraska and Colorado Departments of Agriculture and many agricultural associations. Copies were also available at the two Regional Offices and at the Lincoln, Nebraska, field office.

Four comments were received, consisting of minor suggestions for clarification of the policy and for changes in the criteria for approval, and in the procedures for withdrawing approval, of recertification training courses. EPA has determined that the major points raised are appropriate and this final policy has been revised accordingly. Copies of these comments are available for public inspection during normal business hours at the previously listed locations.

Introduction

In October 1972, Congress amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). One of the major provisions of the amended FIFRA concerns certification of applicators of restricted use pesticides. The certification program is intended to ensure that applicators have sufficient knowledge to prevent adverse human health and environmental effects in or near areas they treat with such pesticides.

EPA issued, published in the **Federal Register** of October 9, 1974, "Standards for Certification of Pesticide Applicators," 40 CFR 171.1–6. The minimum standards an applicator must meet in order to be certified as a private applicator are listed in 40 CFR 171.5 "Standards for Certification of Private Applicators." Additional standards for private applicators who have a supervisory role are listed in 40 CFR 171.6.

During the fall of 1977, the EPA began implementing Federal pesticide applicator certification programs in Nebraska and Colorado and on Indian Reservations in those States since no approved certification plans were in effect there. EPA issued, published in the **Federal Register** of June 8, 1978, final regulations, 40 CFR 171.11, governing Federal applicator certification programs. Under these regulations applicators who use or supervise the use of restricted use pesticides in such States or on Indian reservations are required to be certified.

In order to become certified as a private applicator under these rules, the applicator has the option to:

(1) Complete an Administrator-approved training course;

(2) Pass a written examination; or

(3) Complete an Administrator-approved self-study plan. A private applicator certification is valid for three years from the date of issuance and only in the State in which it is issued.

Recertification

Under 40 CFR 171.11(d)(3) a certified private applicator may qualify for recertification by completing any approved certification option during the 12-month period preceding the expiration of his certification. To insure that all training is current, it will be reviewed and EPA-approved on an annual basis.

Recertification serves two purposes: (1) it helps ensure that private applicators continue to meet the needs of changing technology; and (2) it helps ensure that applicators maintain a continuing ability to use pesticides safely and properly. Prior to recertification in those States where the Agency is administering certification programs, EPA is reponsible for ensuring that private applicators either successfully complete an approved training course, pass the required examinations, or sucessfully complete an approved self-study program.

EPA will provide certified private applicators opportunities to take the required written examinations or complete an approved self-study program for recertification. However, EPA is not able at this time to provide training for recertification. The availability of the training option will be dependent upon the willingness and capability of public or private organizations to develop programs which can be approved by EPA recertification.

Following is a description of the minimum criteria for training courses to recertify private applicators and the procedures for obtaining EPA approval of such a training course.

Standards for an Acceptable Training Course

Topics To Be Addressed

1. *Applicable State and Federal pesticide laws and regulations.* This presentation should include a general review of the FIFRA requirements and its regulations and any applicable State laws which apply to pesticide application, storage, transportation, and disposal. Special attention must be given to changes and additions (including amendments to FIFRA, new or revised regulations, and Agency policy statements) that have taken place during the three-year period preceding the training course.

2. *Environmental precautions.* One of EPA's major responsibilities, in addition to individual applicator safety, is protection of the environment from pollutants, including pesticides. A review of precautions applicators should take to prevent contamination of the environment should be included in the presentation. This review should be directly related to the major restricted use pesticides expected to be used by the applicator group.

3. *Calibration.* One of the major problems associated with pesticide use is maintaining proper calibration of pesticide application equipment and related records. Each training course should include a presentation on pesticide application equipment calibration, including sample problems. Course sponsors are also encouraged to provide information on preparation of field records and of their value to the applicator.

4. *Label review.* Experience has shown problems in label interpretation and understanding. A review of some of these problems should be included. Problem areas will be identified jointly by the trainer and EPA.

5. *Pest identification.* Before choosing and applying a specific pesticide, the

applicator must first identify the target pest(s) to be treated and any non-target species (insects, plants, etc.) that may be present. Each presentation should include a section on the recognition of major pest(s) and beneficial organisms (i.e., insects, plants, etc.) and the damage caused by the pest(s). Applicators should be provided with information on sources of identifying problem pests. Each presentation does not have to include identification of all pests. For example, the course may provide training on identification of new or prevalent pests (insects, weeds, plant disease, etc.) for a particular crop or commodity.

6. *Restricted use pesticides.* One of the main provisions of the amended FIFRA is that applicators of pesticides classified for restricted use be competent with respect to the use and handling of these more hazardous pesticides. A part of being competent is awareness of characteristics, hazards, and safety factors of the restricted use pesticides most commonly used by the applicator. This discussion should include:

a. The relative hazards, including special environmental precautions as related to the specific pesticide category.

b. Persistence, volatility, potential phytotoxicity, drift potential, human hazards, special formulation hazards and precautions.

c. Information on special calibration and application techniques (for example, Ultra Low Volume (ULV) application, or use of adjuvants).

d. Safety factors and proper remedial procedures which are necessary for prevention and treatment of pesticide poisoning.

e. Information that misuse of any restricted use pesticide could result in civil or criminal penalties, and could also contribute to the loss of that product through cancellation.

7. *Integrated Pest Management (IPM).* EPA's responsibilities include not only regulating the use of pesticides, but also encouraging the most efficient use of available pesticides and only using them when needed. Integrated Pest Management (IPM) directly relates to this responsibility.

Although EPA cannot require IPM training, individual organizations are encouraged to provide applicators with information on the concepts of IPM, and must inform the trainee of the availability of IPM instructional materials.

Applicator Participation in Training

When developing applicator training courses, a major consideration must be the amount of knowledge retained by the applicator. Trainees learn best when they are actively involved in the training course. One method of increasing the information retention of the individual is to incorporate procedures which require applicators to actually participate in the training course.

Each training course to be approved by EPA for recertification must include a procedure requiring each individual to participate in a learning exercise. The Sample Applicator Participation Options given below outlines some examples of individual applicator participation procedures which EPA will accept. Training methods not included in the Sample Applicator Participation Options or variations of these methods may be submitted to EPA for consideration. Each method submitted to EPA will be considered on its own merit as it relates to its ability to increase an applicator's information retention.

Organizations should consider audience size when selecting a training method. Group size can have a significant effect upon trainee participation.

Mere passive attendance at a training course will not be considered as successful completion. Attendees should be made aware that failure to participate in the training course and to complete all course requirements will result in denial of recertification.

Active participation may be indicated by the trainee submitting either an approved demonstration article(s) (see Sample Applicator Participation Options below) or an attestation statement (see Sample Attestation Form below). The document which is used must be submitted with EPA's Pesticide Applicator Certification Form, to the Agency. The Agency will review and maintain the submitted documents. In most cases, submission would be expected within 10 days after completion of the training program.

The trainer is responsible for assuring that each applicator participates in and completes the approved training course. The trainer indicates that course requirements have been satisfied by signing the demonstration article or an attestation statement unless there is an EPA/Trainer agreement stating that the trainer's signature on the Pesticide Applicator Certification Form verifies applicator's attendance and participation. In that instance, the trainer is only required to sign the Certification Form. In all cases the Certification Form must be signed by both parties.

EPA Approval of Training Courses

Each training course to recertify private applicators under a Federal certification program will be approved in advance by the appropriate EPA regional office. Only under special conditions will a course be given approval after it is held. The proposal of a course for repetitive presentation will only require one submission for approval.

Each training course must meet the criteria listed above. The training course must be presented at the 12th grade level of comprehension, with provision for differing cultural and educational conditions if necessary. EPA will determine if extenuating conditions for exception to the 12th grade rule exist after consultation with respective State education authorities.

Proposed training courses will be submitted to the appropriate Regional Office for its review far enough in advance of the proposed course to allow the Agency 20 working days to review for approval. When submitting proposals, the sponsoring organization(s) should also consider the time needed to modify the proposed course if modifications are requested by the Agency.

This submission should include, but is not limited to, the proposed curriculum, estimated time allotted per seqment, training aids, instructional methodology, and applicator participation method to be used. The Regional Office may at its discretion request that other information concerning the course be submitted.

EPA does not intend to monitor all private applicator training courses; however, the Agency will monitor courses selected at random. The trainers or training agency must notify the Agency of all scheduled courses at least one week in advance to allow sufficient time for planning monitoring activities. This notification will include the time, date, and location of the training site(s).

EPA retains the authority to withdraw approval of a training course not conducted in accordance with the Agency's approval conditions. In the event a training course did not appear to satisfy the approved conditions, individual course sponsors will be given an opportunity to confer with the Pesticide Program Branch Chief prior to any action to withdraw course Approval.

If after the opportunity for such conference, the Branch Chief decides to sustain the recommended disapproval, he will so notify the training sponsor and state the reasons and conditions for such action. The course sponsor then has 10 days to submit a written appeal

to the Pesticide Program Division Director. The Division Director will issue a final decision on the appeal in writing within 10 days of his receipt.

If the Regional Pesticide Program Branch Chief receives evidence that an applicator has not completed a recertification program, he may deny renewal of the applicator's certification after having provided the applicator an opportunity for informal consultation. If the Branch Chief decides not to renew the applicator's certification, he will notify the applicator in writing giving the reason(s) for the denial. The affected applicator has 10 working days to submit a written appeal of that decison to the Pesticide Program Division Director. The Division Director will issue a final decision on the appeal in writing within 10 days of his receipt.

Sample Applicator Participation Options

I. *Incomplete outline.* The instructors or sponsors of the training session develops an outline for each section of the course. Only the main headings and subheadings would be on the sheet distributed to the participants. It would be the responsibility of each individual participant to complete the remaining portions of the outline. The presentation should contain more in the outline and should also be designed to require the individual applicator to use experience and logic before completing the outline.

The following is an example of an acceptable incomplete outline.

I. Applicable State and Federal Pesticide Laws and Regulations.
A. State Laws.
1. Types of State Laws.
a.
b.
2. Types of Registration.
a.
b.
3. Prohibited Acts.
a.
b.
B. Federal Laws.
1. Types or Names and Administering Agency(ies).
a.
b.
2. FIFRA Major Provisions.
a.
b.
c.
d.
3. Prohibited Acts (FIFRA).
a.
b.
c.
C. Recent Amendments and Regulations.
1. 1978 Amendments to FIFRA (major ones).
a.
b.
i.
ii.
c.
2. New Regulations and Policies.
a.
b.

II. *Worksheets.* Worksheets are prepared for each area of discussion. Attempts should be made to provide problems and questions suitable to the majority of the applicators' farming practices. For labeling, labels should be present so each attendee can analyze and answer questions relating to the label. Problems dealing with calibration should be developed so the answer can be worked out by the individual applicant. Worksheets should be completed on an individual basis in order to require the individual applicator to think for himself and to supply the correct answers, thereby reinforcing the learning process. After each applicator has completed this worksheet, there must be an instructor-led group discussion of each problem and question including the reasons why an answer is right, why it is wrong. This method is readily adaptable to large audiences.

III. *Group problem-solving.* Depending on the number of attendees, the main conference can be divided into smaller discussion groups after formal training is completed. Each discussion group is given a pesticide application problem, including all of the particulars relating to this problem. (For example, if discussing a weed problem: the weed(s) of concern, weather conditions, soil conditions, human and environmental factors, land area of concern, choice of pesticide(s), use of integrated pest management methods, potential legal problems, equipment available, and miscellaneous factors.) Members of the small groups would then discuss the problem among themselves and come up with a solution. Each group's solution to the problem would then be discussed and reviewed before the entire conference. This method of applicator participation provides some assurance that each applicator will participate in the smaller groups. It also allows for the applicator's individual experience and gives him the opportunity to learn from his peers.

It would be the responsibility of the trainer or an EPA official to ensure that each individual applicator fully participated in the course and completed all course requirements. If the trainer makes the determination, he must maintain a record of the program and a summary of points reviewed in the discussion.

The following is a sample of an attestation statement that meets the Agency's requirements.

Sample Attestation Statement

Name: _____
Address: _____
City/Town: _____
County: _____
State: _____

"I hearby swear (or affirm) that I have completed an approved pesticide applicator training program: that I understand and can apply the information presented therein: that I understand the significance of labeling, including the label: and that I understand my legal responsibilities for the use of pesticides in accordance with label instructions and warnings."

Signature of Applicant _____
Certification Number _____
Date _____

EFFECTIVE DATE: Since initial certification of many private applicators in Nebraska and Colorado is scheduled to expire in the near future, it is necessary for this policy on recertification to be implemented as soon as possible. Accordingly, this policy will become effective on October 24, 1980.

Dated: October 14, 1980.

Gene A. Lucero,
Acting Regional Administrator, Region VIII.

Dated: October 8, 1980.

Kathleen Q. Canin,
Regional Administrator, Region VII.

[FR Doc. 80-33178 Filed 10-23-80; 8:45 am]
BILLING CODE 6560-32-M

[FRL 1643-5]

Jurisdiction of Dredged and Fill Program: Consolidated List of Special Cases

AGENCY: Environmental Protection Agency.

ACTION: Notice of consolidated list of special cases.

SUMMARY: This notice lists special cases which have been developed pursuant to a March 23, 1980, Memorandum of Understanding (MOU) between the Chief, U.S. Army Corps of Engineers (COE) and the Administrator of the Environmental Protection Agency (EPA). This MOU establishes policies and procedures that the COE and EPA will follow in resolving geographical jurisdictional problems arising in connection with the Section 404 program regulating the discharge of dredged or fill materials into the waters of the United States. Special cases are those situations where significant issues or technical difficulties exist concerning

the jurisdictional scope of Section 404 waters, the environmental consequences of jurisdiction are significant, and EPA has declared a special interest. The COE will refer jurisdictional questions involving these special cases to EPA for determination of extent of jurisdiction.

EFFECTIVE DATE: This list of special cases is effective October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph A. Krivak, Director, Criteria and Standards Division (WH-585) Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202/755-0100).

SUPPLEMENTARY INFORMATION: On September 5, 1979, Attorney General Civiletti issued an opinion that the Administrator of EPA has the ultimate administrative authority to determine the jurisdictional scope of waters of the United States for purposes of Section 404 of the Clean Water Act. In order to administer the Section 404 program efficiently and effectively under this opinion, EPA and the COE entered into an MOU on March 23, 1980, which establishes specific procedures to ensure that the public will receive prompt, definitive answers to inquiries about jurisdiction. The MOU was published in the **Federal Register** on July 2, 1980 (45 FR 45018).

The Corps of Engineers has significantly greater resources at the field level than EPA's 404 Program, and in most cases, the methods and standards for making jurisdictional determinations are well-established. Thus, the MOU provides that the District Engineer will continue to make the great majority of jurisdictional decisions. However, the MOU recognizes that certain cases may present scientific, technical or policy complexities. Accordingly, the MOU allows EPA, after consultation with the COE, to delineate such categories or types of cases (i.e., special cases) which will be referred to EPA for a decision. EPA is today publishing the initial list of special cases with descriptions, as required by the MOU.

When a pre-permit inquiry or permit application is presented to the District Engineer, he will first determine if a special case is involved. If he decides that the inquiry does not involve a special case, he will make the jurisdictional determination; if it does involve a special case, he will refer the matter to EPA. If the District Engineer doubts the status of a case, he shall treat it as a special case or consult with EPA as to its status. He may, if he wishes, consult with EPA even when no special case is involved. Of course all determinations, whether made by the COE or EPA, will be based on the applicable law and regulations defining waters of the United States.

We anticipate that the precedents established under the special case procedure, together with joint scientific research and consultation, will eventually reduce the number of special cases. Both agencies pledge to administer their joint Section 404 responsibilities fairly, fully, efficiently, and expeditiously.

The list of special cases was developed in consultation with the COE to make certain that the cases were clearly enough defined to ensure proper referral. We have also attempted to describe them in an understandable way for the public. For example, we describe the bottomland hardwoods covered by the first special case by the use of Society of American Forester's forest cover types because such types are familiar to foresters and lumber companies having an interest in bottomland hardwood areas. However, we stress that inclusion of a category on this list does not mean that every area falling within the category is a water of the United States under the Clean Water Act; it merely means that EPA has the opportunity to make jurisdictional determinations on a case-by-case basis, by applying published regulations to the facts of the case.

The second special case involves a specific California site commonly known as the Bolsa Chica Gap. The COE South Pacific Divison and EPA Region IX have agreed to list this area as a special case because of technical difficulties relating to past activities by man.

Dated: October 17, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

Consolidated List of Special Cases

1. Bottomland and hardwood areas regardless of size, containing one or more of the following Society of American Foresters' forest cover types (*Forest Cover Types of North America*, 1979.) (Those types indicated with an asterik (*) frequently occur within the floodplain as "hummocks" or "patches" or "islands" where minute changes in factors such as water, elevation and soils determine their presence. However, their ability to adapt to hydrological changes and prolonged flooding qualify them as potential Section 404 wetlands.)

River Birch—Sycamore, Type 61
Silver Maple—American Elm, Type 62
Cottonwood, Type 63
Pin Oak—Sweetgum, Type 65
Laurel Oak—Willow Oak, Type 88
Sweetgum—Nuttall Oak—Willow Oak, Type 92
Sugarberry—American Elm—Green Ash, Type 93
Sycamore—Pecan—American Elm, Type 94
*Beech—Magnolia, Type 90
*Loblolly Pine—Hardwood, Type 82
*Slash Pine—Hardwood, Type 85
*Swamp Chestnut Oak—Cherrybark Oak, Type 91

A. The Lower Mississippi Valley Division will refer to EPA Regions IV and/or VI for Section 404 jurisdictional determinations those bottomland hardwood areas containing one or more of the above forest cover types in the following counties and parishes. (A plus (+) indicates that only part of the county occurs within the Division.)

Arkansas

+Arkansas
Ashley
Bradley
Calhoun
Chicot
+Clay
Craighead
Crittenden
Cross
Desha
+Drew
Greene
+Independence
+Jackson
+Jefferson
+Lawrence
+Lee
Lincoln
+Lonoke
Mississippi
Monroe
Phillips
Poinsett
+Prairie
+Pulaski
+Randolph
Sevier
St. Francis
Union
+White
+Woodruff

Kentucky

+Ballard
+Calloway
Carlisle
Fulton
+Graves
Hickman
+McCracken

Louisiana (parishes)

Ascension
Assumption
Avoyelles
Caldwell
Catahoula
Concordia
East Carroll
Evangeline
Franklin
Grant
Iberia
Iberville
Jefferson
Lafayette
Lafourche
La Salle
Madison
Morehouse
Orleans
Ouachita
Plaquemines
Point Coupee
Rapides
Richland
St. Charles
St. James
St. John the Baptist
St. Landry
St. Martin
St. Mary
Tensas
Terrebonne
Union
West Baton Rouge
West Carroll
West Feliciana

Mississippi

Adams
+Alcorn
+Amite
Attola
Benton
Bolivar
Calhoun
Carroll
Chicasaw
Choctaw
Claiborne
Coahoma
Copiah
DeSoto
Franklin
Grenada
Hinds
Holmes
Humphries
Issaquena
Jefferson
Lafayette

+Leake
+Lincoln
Laeflore
Madison
Marshall
Montgomery
+Oktibbeha
Panola
+Prentiss
Quitman
Sharkey
Sunflower
Tallahatchie
Tate
Tippah
Tunica
Union
Warren
Washington
Webster
Wilkinson
Yalabusha
Yazoo

Tennessee

+Carroll
+Chester
Crockett
Dyer
Fayettee
Gibson
Hardeman
Haywood
+Henderson
+Henry
Lake
Lauderdale
Madison
+McNairy
Obion
Shelby
Tipton
Weakly

B. The COE Southwestern Division will refer to EPA Region VI for Section 404 jurisdictional determinations those bottomland hardwoods areas containing one or more of the forest cover types indicated above with an asterisk in the following counties and parishes. (A plus (+) indicates that only part of the county or parish occurs in the Division.)

Arkansas

+Arkansas
+Clay
+Drew
+Independence
+Jackson
+Jefferson
+Lawrence
+Lincoln
+Lonoke
+Pulaski
+Randolph
Sevier
+White
+Woodruff

Louisiana (parishes)

+Beauregard
+Calcasieu
+Carmeron
+DeSoto
+Sabine
+Vernon

Texas

Anderson
Angelina
Bowie
Camp
Cass
Cherokee
Delta
Fannin
Franklin
Gregg
Hardin
Harrison
Henderson
Hopkins
Houston
Hunt
Jasper
Jefferson
Lamar
Liberty
Marion
Morris
Nacogdoches
Newton
Orange
Panola
Polk
Rains
Red River
Rusk
Sabine
San Augustine
San Jacinto
Shelby
Smith
Titus
Trinity
Tyler
Upshur
Van Zandt
Wood

2. The wetlands/lowlands portion of Bolsa Chica near the City of Huntington Beach in Orange County, California, generally bordered by Edwards Street, Talbert Avenue and Huntington Beach City limits to the east, the Pacific Ocean to the west, Warner Avenue to the north, and Huntington Beach Mesa to the south. This area, which is in EPA Region IX, consists of approximately 1,200 acres.

[FR Doc. 80-33403 Filed 10-23-80; 8:45 am]
BILLING CODE 6560-29-M

[ER-FRL-1624-7]

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 October 14, 1980 to October 17, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from October 24, 1980 and will end on December 8, 1980. The 30-day review period for final EIS's as calculated from October 24, 1980 will end on November 24, 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 source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558-8270. (For hard copy reproduction or microfiche.)

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of October 14, 1980 to October 17, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extentions or reductions of prescribed review periods, withdrawals, retractions, corrections, or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 245-3006.

Dated: October 21, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

U.S ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, 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.

Report

Fairfield harbor maintenance (report), Lake County, Ohio, October 16: This supplemental information report concerns a final EIS, #751368, filed 9-10-75, which addressed the maintenance of Fairfield Harbor, Lake County, Ohio. This report updates points of concern relating to dredging and disposal operations. (Buffalo District) (EIS Order #800792).

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.

Final

Waste Isolation Pilot Plant, Construction, Eddy County, New Mexico, October 17: Proposed is the construction and opertion of a waste isolation pilot plant for the defense transuranic nuclear wastes (TRU), experimental research and development with high level waste forms and for the potential disposal of up to a thousand spent fuel assemblies in an intermediate scale facility. The site under consideration is located in Eddy County, New Mexico. Seven alternatives are considered which include: no action, alternatives to TRU-waste disposal, alternatives for the intermediate-scale facility, alternative time schedules and potential alternative locations (DOE/EIS-0026). Comments made by: HEW, DOI, EPA, NRC, and State and local agencies. (EIS Order No. 800794.)

Extension: The review period for the above EIS has been extended until December 8, 1980 (No. 800794).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, DC 20410, (202) 755-6300.

Draft

Barrington Place Subdivision Mortgage Insurance, Fort Bend County, Tex., October 15: Proposed is the issuance of HUD home

mortgage insurance for the Barrington Place Subdivision in Fort Bend County, Texas. The development would encompass 400 acres and contain 1,625 single family dwelling units. In addition the development will include school sites, commercial reserves, and high density reserves (HUD-RO6-EIS-80-5D). (EIS Order No. 800791.)

Final

Southwyck Subdivision, Mortage Insurance, Brazoria County, Tex., October 14: Proposed is the issuance of HUD home mortgage insurance for the Southwyck Subdivision in Brazoria County, Texas. The development would encompass 1863 acres and would include construction of primarily single-family dwellings. Also included would be commercial reserves, apartments, school sites, and amenity areas with greenbelts and open spaces (HUD-RO6-EIS-80-9F). Comments made by: FEMA, EPA, USDA, DOT, COE, HEW, AHP, DOI, and State and local agencies. (EIS Order No. 800789.)

The following is a community development block grant statement prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the Appropriate Local Executive. Copies are not available from HUD.

Draft

Detroit/Hamtramck Central Industrial Park, UDAG, Wayne County, Mich., October 17: Proposed is the awarding of a UDAG to the Cities of Detroit and Hamtramck, Wayne County, Michigan, for the construction of a central industrial park. The project would initially consist of acquisition, relocation, demolition and site preparation of 465 acres. The industrial park would include water, sewer service, drainage, transportation power, communication and other facilities. The alternatives considered include: (1) no action, (2) residential use of the site, (3) a smaller site, and (4) other sites. (EIS Order No. 800795.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, DC 20240, (202) 343-3891.

Fish and Wildlife Service

Extension: Charles M. Russell National Wildlife Refuge, MT, published FR September 19, 1980, No. 800679—review period extended until December 12, 1980.

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th and Constitution Ave., N.W., Washington, DC 20423, (202) 275-7658.

Report

Golden Triangle RR, C/O (Report), Lowndes County, Miss., October 15: This supplemental information report concerns a final EIS, No. 800422, filed 6-6-80, which addressed the construction and operation of a shortline, common carrier railroad in Lowndes County, Mississippi. The report addresses a slight alignment modification. (Finance Dockets 29170F and 29220.) (EIS Order No. 800790.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P-518, Washington, DC 20555, (301) 482-8446.

Final

Dresden Nuclear Power Station, Unit 1, Morris, Grundy County, Ill., October 17: Proposed is primary cooling system chemical decontamination at Dresden Nuclear Power Station, Unit 1, located near Morris, Grundy County, Illinois. The decontamination will involve the circulation of a decontamination solution through the system to dissolve a thin layer of radioactive corrosion products which have accumulated during the 20-year operation of Dresden 1. The alternatives considered: (1) mechanical cleaning, (2) water flushing, (3) operational techniques, and (4) chemical cleaning (NUREG-0686). Comments made by: COE, USDA, FERC, HUD, HEW, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800796.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357

Federal Highway Administration

Final

US 2, Churches Ferry to Devils Lake, Benson and Ramsey Counties, N. Dak., October 15: Proposed is construction of US 2 a two-lane roadway parallel to the existing roadway from the junction of US 281 and US 2 (just west of Churchs Ferry) to the existing four lane road way (just west of Devils Lake). The project will provide a four lane divided highway approximately 18 miles long. The project will require additional right-of-way. The alternatives consider no action and several alignments. The project is located in Benson and Ramsey Counties, North Dakota. The cooperating agency is the State of North Dakota. (FHWA-ND-EIS-79-01F). Comments made by: DOI, HUD, EPA, COE, State and local agencies businesses. (EIS Order No. 800793.)

Final

Correction: The following EIS should have appeared with the Notice of Availability published in the October 20, 1980 **Federal Register** The review period began on October 17, 1980 and will terminate on November 17, 1980.

I-440, From I-440 to I-24, Nashville, Davidson County, Tenn., October 7: Proposed is the improvement of crosstown transportation in Nashville, Davidson County, Tennessee. The project, to be known as I-440, has been planned to provide the principal high capacity facility for the circumferential travel demand. Five alternatives are presently under study which include: 1) present design, a six-lane limited-access highway, 2) reduced facility, four lane limited-access, 3) signalized intersections and additional turn lanes where needed, and 4) no-build. The build alternatives include a two and one-half mile long bikeway. (FHWA-TN-EIS-78-06F). Comments made by: USDA, DOI, AHP, COE, HEW, DOT, DOE, EPA, State and local agencies groups. (EIS Order No. 800753.).

Correction: A report was published in the **Federal Register** notice on October 20, 1980, entitled, I-40, Extension, I-40/I-95 the Wilmington, NC. The accession number was incorrect and should have been 800781.

[FR Doc. 80-33304 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-50494; FRL 1566-7]

Issuance of Experimental Use Permits

Correction

In FR Doc. 80-24207, appearing on page 53567, in the issue for Tuesday, August 12, 1980, in the first column, in the second paragraph, in the fourth line, "(+)" should have read "(±)".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 80.610; 80-611; File Nos. 2539-CM-P-79, 4032-CM-P-79]

RJN Broadcasting, Inc., and Microband Corp. of America; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 6, 1980.

Released: October 14, 1980.

In re application of RJN Broadcasting, Inc., for a construction permit in the Multipoint Distribution Service for a New Station at West Lafayette, Indiana, CC Docket No. 80-610, File No. 2539-CM-P-79; and Microband Corporation of America, for a construction permit in the Multipoint Distribution Service for a New Station at Rossville, Indiana, CC Docket No. 80-611, File No. 4032-CM-P-79.

1. The Commission has before it the above-referenced application of RJN Broadcasting, Inc., filed on April 2, 1979 (accepted on Public Notice May 21, 1979) and the application of Microband Corporation of America filed on July 20, 1979 (accepted on Public Notice August 13, 1979). Both applications are for a construction permit in the Multipoint Distribution Service and both propose to operate on Channel 1 in the Lafayette, Indiana area. The applications are therefore mutually exclusive and require comparative consideration. Both applications have been amended as a result of informal requests by the Commission staff for additional

information, and no petitions to deny or other objections to either of the applications have been filed.

2. Upon review of the captioned applications, we find that both applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that RJN Broadcasting, Inc., Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

Thomas J. Casey,

Deputy Chief, Operations Common Carrier Bureau.

[FR Doc. 80-33152 Filed 10-23-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be made in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

Senior Executive Committee; Appointment of Members

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Charles D. Ferris has appointed, effective October 6, 1980, Commissioners Tyrone Brown and Robert E. Lee to the Senior Executive Committee, Federal Communications Commission, which functions as the Performance Review Board for SES members reporting directly to the Chairman. The Commission had previously approved Chairman Ferris to serve as permanent Chairman of the Committee.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-33151 Filed 10-23-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

Negative Campaigns: Denial of Rulemaking Petition

AGENCY: Federal Election Commission.

ACTION: Notice of denial of rulemaking petition.

SUMMARY: The Commission announces denial of a Petition for Rulemaking filed on April 3, 1980, by the Democratic National Committee and the Democratic Senatorial Campaign Committee (45 FR 26819, April 21, 1980) regarding a proposed notice to be required on solicitations by committees conducting "negative campaigns" (i.e., in opposition to a candidate).

DATE: September 25, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Propper, Office of General Counsel, 1325 K Street NW., Washington, D.C. 20463, (202) 523-4175.

SUPPLEMENTARY INFORMATION:

Negative Campaigns: Denial of Rulemaking Petition

On April 3, 1980, the Democratic National Committee and the Democratic Senatorial Campaign Committee filed a Petition for Rulemaking with the Federal Election Commission (45 FR 26819, April 21, 1980). The Petition sought promulgation of a regulation requiring committees conducting "negative campaigns" (i.e., in opposition to a candidate) to carry a notice on solicitations informing contributors that, under a February 12, 1980, letter ruling by the Internal Revenue Service, contributions to such committees would not qualify for the standard tax credit under 26 U.S.C. 41.

The Commission invited public comment on the Petition and received comments from 12 persons and a floor statement by a U.S. Senator. All of these comments were in opposition to the Petition. The Commission also sought the comments of the Internal Revenue Service pursuant to 2 U.S.C. 438(f). The IRS took no position on the Petition but reiterated the letter ruling's interpretation that 26 U.S.C. 41 does not encompass contributions to committees conducting "negative campaigns".

At its Open Meeting on September 25, 1980, the Commission voted unanimously to deny the Petition. Copies of the General Counsel's recommendation on which the Commission's decision was based and a concurring statement by Commissioner Reiche are available for public inspection and copying in the Commission's Public Records Office, 1325 K Street NW., Washington, D.C. 20463, Telephone: (202) 523-4181, (toll-free) (800) 424-9530.

Dated: October 20, 1980.

Max L. Friedersdorf,

Chairman, Federal Election Commission.

[FR Doc. 80-33147 Filed 10-23-80; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, November 6, 1980
Thursday, November 13, 1980
Thursday, November 20, 1980.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with

the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning thee meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415 (202-632-9710).

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

October 16, 1980.

[FR Doc. 80-33267 Filed 10-23-80; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Correction

The bank holding company listed in this notice has applied, and received approval pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 4, 1980.

A. *Federal Reserve Bank of Kansas City* (Thomas M. Hoening Assistant, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

This notice is a republication of a previous **Federal Register** document (FR Doc. 80-21015) published at page 47467 of the issue for Tuesday, July 15, 1980. The geographic scope specified in that notice was incorrect.

First Midwest Bancorp, Inc., St. Joseph, Missouri (agricultural financing): to engage in agricultural lending activities through a wholly owned subsidiary First AgCorp, Inc., St. Joseph, Missouri. The geographic area to be served is as follows: the states of Missouri, Kansas, Nebraska, and Iowa, parts of Colorado and Illinois, and Deaf Smith County, Texas.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33222 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

CAARGO Financial Corp.; Formation of Bank Holding Company

CAARGO Financial Corporation, Bentonville, 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 51.63 per cent of the voting shares of Bentonville State Bank, Bentonville, 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)).

CAARGO Financial Corporation, Bentonville, Indiana, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Olin W. Davis Insurance Agency, Inc., Bentonville, Indiana.

Applicant states that the proposed subsidiary would engage in the activities of general insurance in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Bentonville and Connersville, Indiana, and the geographic areas to be served are Bentonville, and Connersville Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writting and received by the Reserve Bank, not later than November 17, 1980.

Board of Governors of the Federal Reserve System, October 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33223 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

DeSoto Banking Corp.; Formation of Bank Holding Company

DeSoto Banking Corporation, Arcadia, Florida, 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 (less directors' qualifying shares) of the voting shares of The First State Bank of Arcadia, Arcadia, Florida. 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 November 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, October 16, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33224 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

East Texas Bancorporation, Inc.; Formation of Bank Holding Company

East Texas Bancorporation, Inc., Palestine, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The East Texas National Bank of Palestine, Palestine, 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 November 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, October 16, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33225 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

First Oklahoma National Corp.; Formation of Bank Holding Company

First Oklahoma National Corporation, Stigler, 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, Stigler, 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 November 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33226 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Securities Corp.

Guaranty Securities Corporation, Minneapolis, Minnesota, 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)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to continue to engage in the activities of selling, as agent, credit life, health and accident insurance directly related to extensions of credit by its subsidiary, Guaranty State Bank of Robbinsdale, Robbinsdale, Minnesota. These activities would be performed from Applicant's offices in Minneapolis, Minnesota, and the geographic areas to be served as parts of Hennepin County, Minnesota, including the city of Robbinsdale, and portions of the neighboring suburbs of Golden Valley, Crystal, New Hope, Brooklyn Center and northwestern Minneapolis, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

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 November 17, 1980.

Board of Governors of the Federal Reserve System, October 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33232 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Harris County Bankshares, Inc.; Formation of Bank Holding Company

Harris County Bankshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Bank of Harris County, N.A., Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 17, 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, October 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33227 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Mahaska Investment Co.; Formation of Bank Holding Company

Mahaska Investment Company, Oskaloosa, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Summer, Summer, Iowa. 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)).

Mahaska Investment Company, Oskaloosa, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain all the voting shares of MIC Leasing Co., Oskaloosa, Iowa.

Applicant states that the proposed subsidiary would continue to engage in the activities of leasing personal and real property. These activities would be performed from offices of Applicant's subsidiary in Oskaloosa, Iowa, and the geographic area to be served is Oskaloosa, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

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 November 19, 1980.

Board of Governors of the Federal Reserve System, October 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33228 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Twin Cedars Bancorp; Formation of Bank Holding Company

Twin Cedars Bancorp, Bussey, Iowa, 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 State Bank of Bussey, Bussey, Iowa. 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 November 20, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33229 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Western Bancorp, Inc.; Formation of Bank Holding Company

Western Bancorp, Inc., Garden City, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Western State Bank, Garden City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected 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 November 17, 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, October 16, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33230 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

Wood & Huston Bancorporation, Inc.; Acquisition of Bank

Wood & Huston Bancorporation, Inc., Marshall, 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 of South East Missouri Bank, Cape Girardeau, 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 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 November 17, 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, October 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-33231 Filed 10-23-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Cigarette Testing Results; Tar and Nicotine Content; Correction

ACTION: Correction.

SUMMARY: This document corrects the notice published in the **Federal Register** for September 23, 1980 correcting the rounded "tar" figures for Newport Lights cigarettes.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Harold Pillsbury, PAL-H-750, Federal Trade Commission, Washington, D.C. 20580. (202) 523-3559.

SUPPLEMENTARY INFORMATION: In FR Doc. 80-29311 appearing at page 63142 in the issue of Tuesday, September 23, 1980, on pages 63142 and 63143, the following correction should be made.

The word "Lights" should appear after the word "Newport" in the sentence which now reads: The rounded "tar" figures for Newport, filter soft pack, menthol cigarettes should be 9 mg. and not 10 mg.

The corrected version will therefore read: The rounded "tar" figures for Newport Lights, filter soft pack, menthol cigarettes should be 9 mg. and not 10 mg.

Carol M. Thomas,

Secretary.

[FR Doc. 80-33150 Filed 10-23-80; 8:45 am]

BILLING CODE 6350-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 128; Application No. 59902]

The Pacific Gas & Electric Co., The California Public Utilities Commission; Proposed Intervention in Electric and Gas Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the California Public Utilities Commission concerning the application of the Pacific Gas and Electric Company for an increase in its electric and gas rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Leonard A. Salters, Acting Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, NW, Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), on or before November 24, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: October 8, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-33138 Filed 10-23-80; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced.

Obstetrics-Gynecology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel

Date, time, and place. November 10, 9 a.m., Rm. 6821, 200 C St. 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 4 p.m.; Lillian Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes appropriate recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make formal presentations should notify the contact person by November 7, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The Section will discuss the association between long-term use of intrauterine contraceptive devices (IUD's) and pelvic actinomycosis.

Applications for reimbursement. Must be received by November 3, 1980.

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. November 24 and 25, 9 a.m., Auditorium, 200 Independence Ave., SW., Washington, DC.

Type of meeting and contact person. Open public hearing, November 24, 9 a.m. to 10 a.m.; open committee discussion, November 24, 10 a.m. to 5 p.m.; open public hearing, November 25, 9 a.m. to 10 a.m.; open committee discussion, November 25, 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 (November 24) and contact lenses and contact lens products (November 25). Submission of data relative to tentative classification is also invited. Those desiring to make formal presentations should notify the contact person listed above by November 14, 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 conduct reviews of premarket approval applications of intraocular lenses and will discuss other statistical/epidemiological questions pertaining to intraocular lenses (November 24); and will conduct reviews of premarket approval applications for contact lens products, prototype package inserts, and patient information booklets. Fitting guides for contact lens solutions will also be presented.

Applications for reimbursement. Must be received by November 12, 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 Dockets Management Branch (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 Dockets Management Branch (formerly the Hearing Clerk's office) 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: October 22, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-33334 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0404]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(acrylamide-[2-acrylamide-2-methylpropylsulfonate]-dimethyldiallyl ammonium chloride) as a component of adhesives in articles for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended, (21 U.S.C. 321(s), 348)) notice is given that a petition (FAP 9B3474) has been filed by Calgon Corp., Calgon Center, P.O. Box 1346, Pittsburgh, PA 15230, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of poly(acrylamide-[2-acrylamide-2-methylpropylsulfonate]-dimethyldiallyl ammonium chloride) as a component of adhesives used in articles in contact with food.

FDA has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the need of an environmental impact analysis report, and that no environmental impact statement is necessary. A copy of all relevant environmental impact materials may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 15, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-33020 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0398]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended by revising the limitation currently set for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride as a component of paper and paperboard in contact with aqueous and fatty foods.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3440) has been filed by the Dow Chemical Co., Midland, MI 48640, proposing that § 176.170(b)(2) (21 CFR 176.170(b)(2)) be amended by revising the limitation currently set for 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride to provide for its use as a preservative for latex and pigment slurries as components of coatings for paper and paperboard when used in contact with food.

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

Dated: October 15, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-33021 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0248]

Monsanto Co.; Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (FAP 0B2549) proposing the safe use of the aluminum, calcium, magnesium, potassium, and sodium salts of capric, caprylic, lauric, myristic, oleic, palmitic, and stearic acids; and the zinc salts of myristic, oleic, palmitic, and stearic acids; as stabilizers in polymers used in the manufacture of food-contact articles.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 384(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Monsanto Co., 1101 17th St. NW., Washington, DC 20036, has withdrawn its petition (FAP 0B2549). The notice was published in the **Federal Register** of June 18, 1970 (35 FR 10050), proposing (as supplemented after publication of the notice) that § 121.2566 (recodified § 178.2010) *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of the alumium, calcium, magnesium, potassium, sodium salts of capric, caprylic, lauric, myristic, oleic, palmitic, and stearic acids; and zinc salts of myristic, oleic, palmitic, and stearic acids as stabilizers in polymers used in the manufacture of food-contact articles.

Published elsewhere in this issue of the **Federal Register** is a Notice of Withdrawal of Proposal (38 FR 11096), which resulted as a consequence of this petition.

Dated: July 17, 1980.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 80-33022 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Pharmaceutical Reimbusrement Board Final Maximum Allowable Cost Determinations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final maximum allowable cost determinations.

SUMMARY: In accordance with 45 CFR 19.5, the pharmaceutical Reimbursement Board (PRB) announces the following Final Maximum Allowable Cost (MAC) determinations: [1]

Drug	MAC limit
Potassium chloride, oral liquid, 10%	[1] $0.0030
Fluocinolone acetonide, topical solution, .01%	[1] $.1143
Fluocinolone acetonide, topical cream, .01%	[2] $.0833
Fluocinolone acetonide, topical cream, .025%	[2] $.2266
Griseofulvin, microcrystalline, oral tablet, 500 mg	[3] $.2818
Methenamine hippurate, oral tablet, 1 Gm	[3] $.1596
Dicloxacillin Sodium, oral capsules, 250 mg	[4] $.2690
Quinidine sulfate, oral tablet, 200mg	[3] $.0688
Hydrochlorothiazide, oral tablet, 25 mg	[3] $.0152
Hydrochlorothiazide, oral tablet, 50 mg	[3] $.0194

[1] Ml. [2] Gm. [3] Tablet. [4] Capsule.

DATES: The effective date of these MAC limits is December 8, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1-D-5 East Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-5403.

BACKGROUND: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration (HCFA) to set limits on payment or reimbursement for drug products under HCFA and other HHS programs. On January 21, 1980, the Board proposed MAC limits on 12 drug products. (See 45 FR 3972.) The Board has received written comments and held a public hearing concerning MAC limits on these drugs. The Board now announces final MAC determinations for the products listed above. A summary of the written comments, the presentations at the hearings, other material on which the Board relied in determining each MAC limit and the Board's reasons for its determinations, follows.

The Board originally identified these multiple source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration (FDA) has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MACs on the drugs.

The originally proposed MAC limits on these drugs are as follows:

[1] These MAC limits do not apply to unit dose packaging for institutional use.

Drugs and Originally Proposed MAC Limits

Potassium chloride, oral liquid, 10%—$0.0030 per ml

Fluocinolone acetonide, topical solution, .01%—$0.1043 per ml

Fluocinolone acetonide, topical cream, .01%—$0.0712 per Gm

Fluocinolone acetonide, topical cream, .025%—$0.2087 per Gm

Griseofulvin, microcrystalline, oral tablet, 500 mg—$0.2818 per tab

Methenamine hippurate, oral tablet, 1 Gm—$0.1453 per tab

Dicloxacillin sodium, oral capsule, 250 mg—$0.2215 per cap

Dicloxacillin sodium, oral liquid, 62.5 mg/5ml—$0.0236 per ml

Quinidine sulfate, oral tablet, 200 mg—$0.0645 per tab

Hydrochlorothiazide, oral tablet, 25 mg—$0.0152 per tab

Hydrochlorothiazide, oral tablet, 50 mg—$0.0194 per tab

In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relied on two sources: *Drug Topics Red Book* and the HCFA survey. *Drug Topics Red Book*, published annually and updated monthly, is a widely used listing of advertised prices. The HCFA survey is a summary, updated monthly, of actual pharmacy invoice prices obtained by HCFA under contract with IMS America. The HCFA survey price is based on the 70th percentile of invoice prices from a panel of 1,000 pharmacies nationwide.

General comments

Several written comments were received containing statements that addressed issues of a general nature, but were directed to a specific drug product within the group propsed for MAC limits. Where appropriate, the Board has addressed these issues in this section of the Notice rather than as part of the discussion of the specific drug product. Each comment addressing a specific product's availability or information relating only to that product is contained in the discussion of that individual product. A wholesaler in Florida, Lawrence pharmaceuticals, provided a report on the availability of the drug products at the proposed MAC limits. The report gathered information from six wholesalers and 217 "retailers" in Florida. The findings of this report are included in the comments on specific drugs in this notice.

1. A manufacturer commented that some of the proposed MAC limits were a departure from the previous practice of the Board, in that they were based on

direct purchase prices and the advertised prices as opposed to wholesale prices.

This comment is an imcomplete assessment of the Board's decision making. We note that, by regulation, the Board is to determine the lowest unit price at which a particular multiple source drug is widely and consisitently available. The regulation does not expressly specify the exact method of making these determinations. The Board has rlied and continues to rely on the HCFA survey which shows invoice prices of actual pharmacy transactions. We also believe that advertised prices are an important tool in determining the price levels at which drugs are available in the marketplace. These advertised prices represent the best estimate of maximum price levels, and actual delivered prices are often discounted from the advertised level.

However, the Board has never relied sclely on advertised prices. Even where advertised prices are the only figures available when a MAC is proposed, the Board has not established any MAC limits on such a drug in the absence of supporting information from the HCFA survey or information received during the comment period indicating the drug's availability. With regard to direct purchase prices, the Board will set a MAC limit at a direct purchase price only if it is clear that a product is widely and consistently available at that price. The Board does not simply choose the lowest price found.

2. A manufacturer, in oral and written comments, and a wholesaler wrote that the time limit and deadline for responses to the proposed limits created by the Board do not allow sufficient time to develop a proper comment.

The Board notes that the normal time period from the Notice of Intent until the end of the comment period on the proposed MAC limits is typically four to six months. The Board believes this should be more than sufficient time to prepare complete comments. Further, the Board notes that in this particular instance, the Notice of Intent to set MAC limits was published in the **Federal Register** on February 6, 1979 (See 44 FR 7233). Due to the delay caused by the necessity of changing the regulations, the comment period for the proposed MAC limits did not close until February 25, 1980 (See 45 FR 3972).

3. A manufacturer commented that data sources used by the Board provide no reliable information as to the wide and consistent availability of advertised products, and some direct purchase suppliers may be unable to supply the market demand.

With regard to those comments that have criticized the data sources relied upon by the Board, the Board believes that the combination of data sources and the opportunities for public participation clearly assures the reasonableness of its final determinations. Sources of advertised prices such as *Drug Topics Red Book* are widely used and useful tools to gauge the levels of offered prices. Generally speaking they represent the upper levels paid for products. The nationwide HCFA survey of invoice level prices includes all sizes of pharmacies and provides information on the actual prices paid by pharmacies (as opposed to the often discounted advertised prices). To date no evidence whatsoever has been submitted to show that prices in the *Red Book* are understated or that the HCFA survey is inaccurate. While the Board believes these sources to be fully adequate, the value of public participation in the MAC process is that it provides the public an opportunity to make certain that the record upon which the Board relies will be as timely, complete and accurate as possible. To the extent that commenters offer market data not available at the time of the proposed MAC, the Board relies upon these submissions and modifies its proposals whenever it will achieve a more accurate and equitable result. In the past, the Board has on several occasions adjusted its MAC proposals even to the extent of deciding not to set a MAC in response to public comments that drugs were not widely and consistently available at the proposed MAC price, or that the proposed MAC was predicated on out-dated promotional prices.

4. Several comments suggested that the proposed MAC limits should not apply to drugs purchased in unit dose packages intended for institutional use since the product costs for these products often exceed the MAC limits and are often available from only one source in this form.

The Board acknowledges that MAC limits can be inappropriate for drugs purchased in unit dose packaging and has determined that these MAC limits will not apply to unit dose packaging used in an institutional setting.

5. A comment from a college of pharmacy expressed concern that in light of recent court decisions, the relationship of the MAC program to the FDA's authority in the marketplace as a whole was in question.

The Board referred this comment to the FDA and asked that agency to respond. On March 12, 1980 the FDA responded in a letter to the Board:

It is appropriate that the Board consider from time to time the impact on the MAC process of recent court decisions regarding FDA's authority to require Abbreviated New Drug Applications for generic copies of drugs which have been approved for safety and effectiveness. (See *United States* v. *Articles of Drugs . . . The Lannett Company, Inc.*, 585 F.2d 575 (3d Cir. 1978), and *Premo Pharmaceutical, Inc.* v. *United States*, 78 Civ. 5435 (MP) (S.D.N.Y., July 1979)). The situation with respect to FDA's authority and the marketplace as a whole has not substantially changed since I last briefed the Board. It is still FDA's position that the vast majority of the marketplace is in conformity with the new drug provisions of the Food, Drug and Cosmetic Act insofar as compliance programs have been accomplished. FDA is still confident that it has both the ability and the authority to properly police the marketplace. Those very few firms which apparently are in violation of the law, marketing new drugs without approval, are the subject of vigorous enforcement action, and we believe that progress has been made in bringing the situation to a legal resolution.

FDA continues to assert its authority in all jurisdicitons in the United States to require approval of new drugs before they are marketed. FDA has relied on other cases and its statute and regulations for the authority to proceed. (See *Pharmadyne Laboratories, Inc.* v. *Kennedy*, 466 F. Supp. 100(d. N.J. 1979), as modified in 596 F.2d 568 (3d Cir. 1979)). In a recent court decision handed down in the U.S. District Court, Southern District on Indiana, February 25, 1980, in the case of *Eli Lilly and Company* v. *Joseph A. Califano, Jr.*, Judge Steckler was not persuaded by Lilly's argument that the existing MAC limits on propoxyphene should be removed because, in part, the FDA no longer had the ability to deal with unapproved generics on the market. In finding for the government, the court said, "Those decisions (*Lannett* and *Premo*) do not undercut or vitiate the Board's conclusion that the safety and reliability of the drugs in question could be maintained and monitored." The court relied on *Pharmadyne* and on FDA's commitment to pursue regulatory actions. The court also relied on FDA's other surveillance and monitoring capabilities and on the MAC procedures which provide for periodic review of MAC determinations whenever substantial grounds are present.

Thus, the courts and the Secretary are comfortable with a reliance on FDA's ability to regulate the drug marketplace and to inform the Board should the situation dictate that a suspension of any or all MAC limits be advisable.

The Board is confident that FDA is capable of exercising its regulatory authority and supplying the required support for the MAC program.

6. A wholesaler commented that it has experienced quality problems with one line of generic products that would have met MAC limits. The comment stated that the product line was discontinued.

The wholesaler's reluctance to carry a poor quality product is commendable and it is the Board's hope that the

problems cited in the comment were brought to the attention of the responsible company and the FDA in a Product Defect Report. In establishing MAC limits the Board accepts and confidently relies on FDA's assurance of drug quality with the marketed drug products. As part of its clearance procedures for each MAC product, the FDA reviews the Product Defect Report files and has determined that there are no problems of sufficient magnitude to warrant a recommendation against the setting of any MAC for this group of drugs.

7. A pharmacist expressed concern about the effect of MAC requirements in a jurisdiction where brand substitution is prohibited by law and he is presented a prescription written for a brand name product. Specifically, the pharmacist stated his understanding that "generics of this drug (Synalar) are not legal." The comment further stated that generic products cannot be substituted under his State's laws.

The Board cannot address the issue of the legality of marketing a particular drug product in a particular State or States. The Board continues to rely upon the assurances provided by the FDA. The alternative product considered by the Board (Fluonid) is approved by the FDA. The Board is unaware of State statutes which would permit the marketing of one approved product but restrict an approved competitor. The MAC regulations neither supersede nor contravene State anti-substitution laws, nor do they authorize or require pharmacists to dispense drugs in violation of State law. Further, the regulations do not limit reimbursement for the cost of the drug to the MAC limit when the physician certifies in his or her own handwriting, the medical necessity of the brand for the treatment of a patient in accordance with 45 CFR 19.3(a). Prior to dispensing a brand name prescription, a pharmacist may contact the prescribing physician for either authorization to substitute or to certify the brand's medical necessity to assure that reimbursement will not be limited to the MAC.

8. The Board received written comments questioning the establishment of a MAC limit on a particular package size or prepackaged products available in multiple sizes. One comment from a State Pharmaceutical Association requested the Board to give consideration to an *"existing standard dispensing size."* A hospital commented that it purchases topical agents in the smallest sizes available because of the short length of stay for most patients and to discourage waste. A wholesaler asked why the usual size of purchase of a product is not taken into consideration when proposing MAC limits.

The MAC regulations require that "the Board shall make an initial determination of the lowest unit price at which the drug is widely and consistently available for any formulator or labeler. This determination will be based *on the package size of drug most frequently purchased by providers.* If it appears to the Board that a drug is or will be unavailable to providers in one or more localities at the same lowest unit price at which it is available elsewhere, the Board shall make a separate determination for each such locality." (See 45 CFR 19.5(c).) In making the initial determination of the lowest unit price at which drug products under MAC consideration are widely and consistently available, the Board makes use of the HCFA survey and other data sources available from IMS America. These information sources are used by the Board to establish the package size most frequently purchased by providers. The Board acknowledges that local purchasing variations may occur but it must consider overall purchases relating to package size.

9. A pharmacist commented that some of the proposed MAC limits were below his cost, especially when the State is paying low dispensing fees.

The Board notes that it is the responsibility of the individual States, rather than the Federal Government, to set dispensing fees for prescriptions given to Medicaid patients (See 42 CFR 447.333). In establishing these dispensing fees, States are to take into account the costs of handling all the different types of prescriptions dispensed in pharmacies including both those which require much time, skill and handling and those for which dispensing is more easily handled. The dispensing fee, which is finally established by the State, may well be in excess of cost for some prescriptions, below cost for those at the other end of the scale, but on balance, should cover the costs the pharmacist incurs in dispensing the total of his prescriptions. Since the MAC program limits the acquisition cost of a drug rather than the dispensing fee, and since it is the responsibility of the State agencies to establish adequate dispensing fees, the Board does not believe the dispensing fee issue should prevent the establishment of appropriate MAC limits.

10. A pharmacist, as executive secretary of a State pharmaceutical association commented that a product that is cross-licensed by one company for another company to distribute, should be subject to a MAC limit. The pharmacist stated the only reason not to establish a MAC limit on a cross-licensed product would be if therapeutic inequivalence existed and this issue can be addressed by the FDA. The pharmacist asked that in setting a MAC limit, the Board consider the price at which the product is available through ". . . prudent purchasing to all pharmacies."

The Board concurs with this comment and notes that MAC limits have been set on licensed products previously. This comment was addressed to methenamine hippurate but the Board notes that the fluocinoline acetonide and dicloxicillin sodium are also cross-licensed products.

11. A pharmacist asked how frequently the MAC limits are updated to reflect market conditions and changes. Further, the pharmacist wanted to know how rapidly such updates could be made.

To this point, the Board has already lowered four existing MAC limits based on changes in the marketplace, and suspended four other announced limits when it became clear that our information was in error. The Board will continue to review the market data monthly on all existing MACs and those under development, and will adjust the limits as appropriate. Should a condition develop or exist regarding a MAC limit that would cause undue hardship on those handling MAC products, the Board is open to receive comments addressing such conditions. The Board will examine such comments and seek to determine how such conditions affect the MAC program and all of its participants. If an acute situation develops which may cause immediate harm the Board may suspend MAC limits. The Board does not believe such an acute situation is likely to develop for products subject to MAC limits. While the Board cannot specify precise time frames within which MAC updates could be effected, certainly the Board is prepared to act as expeditiously as circumstances permit.

12. Several comments were blanket statements that the drug products for which reimbursement limits have been proposed are not widely and consistently available at the proposed MAC limit.

This type of comment is unspecific and undocumented. All specific comments of this nature are answered as part of the discussion of specific drugs.

Some of the general comments were concerned with the various pricing structures and practices employed by distributors, manufacturers, wholesalers and pharmacists in the drug product

distribution process. The comments expressed views on the overall MAC process and other areas relating to the distribution and availability of drug products proposed for MAC limits.

13. A manufacturer commented that, ". . . if a product on which a MAC is based is not available through wholesalers at the MAC price, the MAC does not adequately meet the program's definition of wide and consistent availability."

In determining the availability of a product at the MAC level, the Board's procedures, which include a significant element of public participation, provide assurance that products given MAC limits will have wide and consistent availability.

The Board is not required to assure that all sales of a drug product are within MAC limits or that a drug priced at or below the MAC limit is immediately available on pharmacy and warehouse shelves, but rather that there will be sufficient availability of the drug, on a nationwise basis, at MAC levels and that it will be readily obtainable at that level when the MAC level is implemented.

The court in *Hoffmann-LaRoche, Inc. v. Califano*, 453 F. Supp. 900 (D.D.C. 1978), adopted this position finding an ample legal basis in the MAC regulations. The court said (at p. 904):

> The agency has interpreted "widely and consistently available" as meaning not that the drug is already available on pharmacy and warehouse shelves in sufficient quantity at the MAC price to satisfy all of the Medicare and Medicaid demand but rather that should a MAC be established the drug would be within reach promptly and without difficulty on a nationwide basis at the MAC price.
>
> This construction is reflected in the interpretative regulation 45 CFR 19.5(c)(1976), which requires the Board to determine, "the lowest price at which the drug is widely and consistently available *from any formulator or labeler*," as well as in the preamble to that regulation, 40 FR 32297–98 (1975). The agency's interpretation is entitled to substantial, and in this case, conclusive weight (emphasis added).

The MAC process allows 45 days following publication date before the MAC limits are effective and preliminary notice via proposed limits is available three to five months before the effective date.

14. A manufacturer commented that MACs set below wholesaler levels would be unfairly discriminatory to manufacturers and pharmacists that utilize wholesaler distribution, and may effectively remove the wholesaler as a source of the MACed product.

The Board has no evidence that MAC prices that are below advertised wholesale prices are discriminatory or unfair to any group or organization, nor does it have evidence that the MAC process has removed or will remove any element from the existing drug distribution system that is operating efficiently. The Board notes that where: (a) FDA has provided the required assurance that the generic products are the equivalent of the trade name, (b) the Board has adequate assurance that capacity is more than sufficient and, (c) economic information indicates that the equivalent generic product is available in the marketplace, the Board believes that it must take advantage of the competitive market forces that exist and use these forces as would any other prudent purchaser of drug products. Further, as a purchaser of drug products for various agency programs, the Board believes it should have the same latitude as other major purchasers of multi-source products and not be limited to obtaining drug products only through wholesale outlets at a price that is generally higher than that available from other sources in the marketplace; such a practice would be unfair and discriminatory toward federally funded programs subject to the Board's decisions, and would not provide cost effective health care since a higher price would be paid for a therapeutically equivalent product.

Further, while the Board believes that it has accurately gauged market conditions before proposing MAC limits, the MAC regulations are designed to encourage the maximum possible public participation so that the board will have as much pertinent data as possible at its disposal before making a final determination. The Board believes that this deliberative process reasonably assures that the price limits that are set will pose no difficulties for the acquisition of the product within the reimbursement limits. The Board also believes that the 45 day lead time before the MAC limit becomes effective allows whatever immediate problems might exist regarding the product availability, at the MAC level, to be easily overcome.

15. A manufacturer and a wholesaler commented that pharmacists, in purchasing directly from various sources, rather than from a wholesaler, are required to depart from their normal practices and to do so incur additional and unreimbursed costs.

While some commenters expressed concern that the Board is forcing them to depart for their normal purchasing patterns by shifting from wholesaler to direct purchases, these comments misread the Board's intent. When the Board determines the lowest unit price at which a drug is widely and consistently available, it does so without granting preference to a particular source of supply. Rather, the Board determines the best price already existing in the market at which the availability of the drug can be assured. It is irrelevant to the Board whether this price will confer benefits on one source of supply over another. It is the Board's obligation to act as a prudent consumer and to avoid the government purchasing drug products at unnecessarily high prices when the market already offers quality products at lower prices.

The Board notes that for each of the MAC limits proposed in this Notice, there is evidence that some wholesalers are currently supplying products at or below these limits. Therefore it has not been shown that wholesalers are incapable of meeting these price levels or that pharmacies must purchase directly from manufacturers.

16. Two manufacturers' comments stated that purchasing from other than a wholesaler necessitates pharmacists meeting minimum order requirements of the direct seller, supporting an additional inventory investment and encountering added costs for separate ordering and payment expense.

As noted in the preceding comment there is evidence that the products for which MACs are proposed can be made available through wholesalers, thus the comment is likewise predicated on a hypothetical rather than documented basis. Further, the comment offered no specific evaluation of the additional costs versus the savings involved in direct purchasing.

1. Potassium Chloride, Oral Liquid, 10%

The Board originally proposed a MAC limit of $0.0030 per ml based on a selling price of $1.45 per 480 ml package size.

The *Red Book* lists 18 suppliers who advertise this product at $1.45 or less per 480 ml package size. In addition, according to the HCFA survey, 50 percent of the invoices and 70 percent of the units of the "all other brands" are sold at or below the $0.0030 per ml level. For this drug, "all other brands" represents 14 percent of the invoice orders in the survey and 32 percent of the units. Small and medium size independents purchased the "all other brands" at or below the $0.0030 per ml level.

On August 3, 1979, in response to the Board's request, the FDA notified the Board that potassium chloride in an oral solution form has been marketed since before 1938 and therefore, the FDA does not require an approved New Drug Application as a condition of marketing. There is a monograph for the product in

the *United States Pharmacopeia* which provides a public standard for its quality. The FDA is not aware of any bioequivalence issues associated with the different brands of this drug product, no bioequivalence problems have been reported in the literature, and no bioequivalence requirement regulation is anticipated. Further, the FDA stated that it knew of no pending regulatory or quality problems which would prevent or delay the establishment of a MAC limit for this product.

The Board received several written comments relating to potassium chloride oral liquid, 10% and one manufacturer of a tradename product submitted written comments and appeared at the public hearing on March 12, 1980.

In a response to an inquiry from the Board dated March 8, 1980 concerning marketing information or availability information for potassium chloride oral liquid, and in accordance with the **Federal Register** notice of February 6, 1979, Whiteworth Laboratories of Gardena, California stated it had the capacity to produce two million bottles of potassium chloride per year. The response stated that the company currently produces approximately 500,000 pints of 10% and 20% potassium chloride per year. According to the compnay, its most popular form of the product is the 10% sixteen ounce package size.

Twenty-three comments were received stating that the product could not be obtained at the proposed MAC limit. Eleven comments were received indicating that the product was available at or below the proposed MAC limit.

The results of a survey of Florida wholesalers and retailers were mixed and somewhat unclear as to current product inventrory. According to the survey, four wholesalers indicated that the product was available at or below the proposed MAC while all surveyed retailers indicated it was not.

On March 12, 1980 a public hearing was held regarding the proposed MAC limits. Dorsey Pharmaceuticals of Lincoln, Nebraska was afforded the opportunity to present reasons why the establishment of a MAC on potassium chloride, oral liquid, 10% was inappropriate. These reasons were:

A. That potassium chloride, oral liquid, 10% is not widely and consistently available at the proposed MAC limit of $0.0030 per ml ($1.45/pint).

B. That the proposed MAC would create problems of compliance by some patients for whom potassium chloride is prescribed.

Dorsey's written comment and oral presentation provided results of a telephone survey of drug wholesalers "in our region" who supply pharmacies in Nebraska. The survey was of six wholesalers: two in Nebraska, two in Missouri, and one each in Colorado and South Dakota. According to the survey two of the wholesalers do not stock a product at the proposed MAC limit; two of the surveyed wholesalers do stock a product at or below the proposed MAC limit; one wholesaler indicated that it could supply the product on a "cost plus basis" at $1.45 per pint and one wholesaler indicated the product was available at $1.43 per pint with a $100 order.

Dorsey's comment provided information from another telephone survey, performed by the company, of 2 major wholesaler headquarters. The survey indicated that each wholesaler stocked two different flavors from Whiteworth Laboratories below the proposed MAC limit. (The Board notes that in a separate comment, from one of the same wholesalers involved in the Dorsey telephone survey, it was indicated that the wholesaler did not have a product available at the proposed MAC limit.)

The Dorsey comment cited data developed by the PRB staff and stated that the information indicated that the product was not widely and consistently available at the proposed MAC. The Dorsey comment requested clarification on data developed by the PRB staff, but the company did not specify the type of clarification desired other than asking if the data reflected prices based upon the pint package size. The data presented in the PRB staff information cited by Dorsey does represent the appropriate pint package size for the MAC process.

The Board does not agree with the Dorsey position that potassium chloride 10%, oral liquid is not widely and consistently available at the proposed MAC limit. The Board believes that the information from the HCFA survey, the advertised offers to sell in the *Red Book*, the information from Whiteworth Laboratories and information supplied in Dorsey's telephone survey of major wholesale headquarters indicates that the product is widely and consistently available at the originally proposed MAC limit of $0.0030 per ml.

The second consideration of Dorsey Laboratories was that the establishment of a MAC limit on potassium chloride would create problems of compliance in some patients for whom potassium chloride oral liquid is prescribed.

Dorsey's position is that prescribers and dispensers of potassium chloride oral liquid need sufficient latitude in selecting available products, regardless of price, for their patients to avoid potential compliance problems and resulting consequences. One of the consequences of patient non-compliance with potassium chloride presented by Dorsey was that of patient hospitalization. Dorsey stated that should a patient be hospitalized as a result of non-compliance with potassium chloride oral liquid, perhaps because of product "taste fatigue", only a few such episodes could effectively wipe out any savings produced by the establishment of a MAC limit for the product.

As part of its presentation, Dorsey employed comments from a practicing physician. The physician stated that many patients receiving potassium chloride require close monitoring relating to conditions surrounding their medical conditions. The physician also stated that patients taking potassium chloride often require laboratory procedures to test for adequate amounts of potassium in the body. Such procedures are expensive and their utilization could increase as a result of poor patient compliance with an oral liquid potassium chloride product of less than optimal palatability. This potential resultant laboratory expense could rapidly offset any savings resulting from the establishment of a MAC on the product. A consultant to the Board noted, at the March 12, 1980 hearing, that necessary lab tests should be performed regardless of the product used. The Dorsey representatives acknowledged this fact.

According to Dorsey's presentation, patient non-compliance with potassium chloride oral liquids is a universal problem no matter what product is used. Having several products available to select from increases the possibilities that a physician or a pharmacist could find a product that is palatable enough to a given patient that the patient will take the product. Dorsey argues that the proposed MAC limit, if established, would limit the number of products available for selection by the prescribers and by the pharmacists and would probably reduce the possibilities that the patient would find one that would be palatable.

The Board shares Dorsey's concern over the issue of patient compliance. The Board acknowledges that the imposition of a MAC limit, by definition, places some products above the reimbursement limits and, accordingly, influences prescribers to restrict their choices to products at or below the MAC. The Board notes that there are nineteen suppliers listed in the 1979 *Drug Topics Red Book* at or below the proposed MAC limit and that the same flavor products are available at or

below the MAC limits as are available in the more expensive products.

Thus, by establishing a MAC limit for potassium chloride oral liquid, the Board does not believe it is reducing the recipient's taste selection of the products. Further, the Board notes that should an individual patient be unable to use one or more of the potassium chloride oral liquid products priced at or below the MAC limits, then the physicians may exercise the MAC override by certifying the medical necessity of the patient receiving one of the more costly brands of the product. The Board believes that the MAC regulations, particularly the medical necessity exception offer a balance between accommodating a full range of product choice while encouraging economy. The Board must consider its responsibility in carrying out its duties regarding program payment for various multiple source drugs in light of Congressional pressures to reduce or restrain costs associated with various federally funded programs. This is not to say that the Board is putting the cost element ahead of quality care for program recipients. Rather, the Board believes by its decisions to establish the proposed MAC, it is using existing dollars more effectively.

Dorsey also states, "The annual average number of Medicaid potassium chloride, 10% liquid product prescriptions filled by each Nebraska pharmacy provider amount to 2.35 prescriptions. A Medicaid provider buying direct at a $25 minimum order (some minimum order requirements will be above that) must buy 17 pints of the product priced at $1.45/pint. This amounts to seven year supply at the above Medicaid prescription volume rate. Shelf-life considerations must now come into play."

The Board does not agree or disagree with Dorsey's statement that each Nebraska pharmacy provider dispenses 2.35 prescriptions of potassium chloride, 10% liquids per year, since Dorsey did not supply any supporting documentation. It does question why Dorsey assumes that pharmacists will choose to use more economically priced potassium chloride liquid for only Medicaid recipients and not for other patients. Since FDA has provided the Board with the necessary assurances regarding the equivalent quality of potassium chloride products, the Board fails to understand the Dorsey argument that more economically priced yet equivalent potassium chloride liquid must be limited to Medicaid recipients and perhaps create an inventory problem and resultant "shelf-life considerations * * *." The Board believes that considering FDA's authority, position and assurances of product equivalence, the products subject to MAC limits are acceptable for use by all patients, not just Medicaid recipients. The Board also believes that the use of more economically priced equivalent products would save non-Medicaid patients considerable amounts and lessen the potential problem of dispensing one product for Medicaid patients and another product for other patients. With regard to "shelf-life considerations," the Board notes that with such uniform dispensing any shelf-life problems would be minimized.

The Board does not agree with Dorsey that its argument to prevent the establishment of a MAC limit for potassium chloride 10% oral liquid is persuasive in light of other evidence available on the product.

These comments and other information supplied to the Board indicated that potassium chloride, 10% oral liquid is widely and consistently available at the originally proposed MAC limit of $0.0030 per ml.

On March 19, 1980, after reviewing the record, the Board voted to establish the proposed final MAC limit on potassium chloride, 10% oral liquid at $0.0030 per ml. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

2. Fluocinolone Acetonide, 0.01% Topical Solution, 0.01% and 0.025% Topical Cream

On August 3, 1979, in response to the Board's request, the FDA notified the Board that fluocinolone acetonide is a new drug for which an approved New Drug Application is required for marketing. The FDA does *not* require bioequivalence data for topically applied preparations and is not aware of any problems associated with these products. There are public standards for fluocinolone acetonide topical products in the *United States Pharmacopeia*. The FDA knows of no pending regulatory or quality problem which should prevent or delay the establishment of a MAC limit for fluocinolone acetonide, 0.01% topical solution and 0.01% and 0.025% topical cream.

Several written comments were received regarding the proposed MAC limits for the three forms of fluocinolone acetonide.

The Board is and has been aware that some of the fluocinolone acetonide products proposed for MAC limits are controlled and distributed by Herbert Laboratories of Irvine, California which is a subsidiary of Allergan Pharmaceuticals. According to information provided the Board by Herbert Laboratories, the transfer of Marion Laboratories' fluocinolone acetonide products to Herbert took place in 1978. The Board notes that some literature sources continue to list Marion Labs as a supplier of the tradename product Fluonid. In response to an inquiry from the Board, Herbert Laboratories stated that its fluocinolone acetonide topical creams and solution had undergone a price increase in December 1979. For fluocinolone acetonide topical solution 0.01%, the current price is $0.1133 per ml based on the 60 ml package size. For fluocinolone acetonide topical cream, 0.01%, the current price is $0.0833 per gram based on the 60 gram package size. For fluocinolone acetonide topical cream, 0.025%, the current price is $0.2266 per gram based on the 15 gram package size. Also, in response to an inquiry from the Board, Herbert Laboratories provided the Board with assurance that its "sales and distribution system is fully able to ensure widespread and consistent availability of our product Fluonid." The response stated that its facilities are regularly inspected by the FDA and is in compliance with Good Manufacturing Practices and that Fluonid is the subject of approved New Drug Application.

A major wholesaler, servicing pharmacies in the Middle and North Atlantic States, regarding fluocinolone products proposed for MACing, stated that they stocked no product other than the innovator's (Syntex) tradename product. The Board notes that the wholesaler did not state that they were unable to secure the Herbert Laboratories product.

Syntex Laboratories of Palo Alto, California submitted written comments on the proposed MAC limits for fluocinolone acetonide topical cream, 0.01% and 0.025% and topical solution 0.01%. Syntex Laboratories was responsible for the original development of theses products and is the primary supplier thereof. Syntex commented that based upon the current market situation with respect to these products, the proposed reimbursement limits are inappropriate, are not authorized by HCFA regulations, and should not be adopted.

The Syntex comment was that the Board could not assure the wide and consistent availability of the fluocinolone acetonide products at the proposed MAC price to the extent that the Board was relying on past marketing practices of Marion Laboratories for these products. Specifically, Syntex

believes Marion's production capacity to be inadequate to assure widespread availability of the products and that physicians will be forced to prescribe substitute (and costlier) products. According to the Syntex comment, it would be impossible to assume that Marion would be willing or able to supply sufficient quantities of these products without receiving a significantly higher price than the price it has charged in the past.

Syntex is incorrect in assuming that the Board is relying solely on past marketing practices in its determinations. In addition to the HCFA survey which shows nationwide distribution and purchases by all sizes of stores of Herbert's products, the Board has received from Herbert Lab's written assurances of their ability to meet increased demand.

In light of Herbert Lab's written assurances, and Allergan Lab's (Herbert Lab's parent company) established position as a national distributor of pharmaceuticals, the Board is not willing to accept Syntex's position that it alone is able to supply this market.

Syntex also argues that the proposed products have been least available from Herbert (earlier from Marion) in areas where fluocinolone acetonide is most widely prescribed and this raises further questions about the desirability of establishng a MAC price for these products. To lessen this potential problem Syntex believes that serious consideration should be given to exempting the Pacific and Mid-Atlantic regions from the proposed MAC limits and the company notes that the MAC regulations empower the Board to make such distinctions between regions of the country (45 CFR 19.5(c)). Syntex cites the Pacific and Mid-Atlantic regions as being areas where adequate supplies are most likely to be unavailable and it would be appropriate for the Board to not apply the proposed MAC limits in those areas.

The Board notes that according to the information in the Syntex written presentation, the innovator company is arguing for an exemption from the MAC limit in the Pacific region where it has 95.7 percent of the fluocinolone acetonide market and in the Mid-Atlantic region where it controls 95.1 percent of the product market.

Syntex has argued that a monopoly position in a market implies lack of availability of competing products. The Board, however, does not accept this analysis even though Syntex currently enjoys near monopoly status in various markets. This does not mean that competing products will not be available if they are, in fact, requested by wholesalers and retailers.

In light of other information available in the record, the Board does not believe the Syntex arguments to be persuasive.

A pharmacist expressed concern over the inclusion of fluocinolone acetonide cream in the list of proposed MAC limits. According to the comment, "this concern stems from industry rumors as to possible stability problems which have occurred on this product."

The Board acknowledges the commenter's concern but notes that it must rely upon the authority and assurances of the FDA when considering products for MAC limits rather than rumors from assorted sources. Further, Herbert Laboratories provided the board with a letter stating that their fluocinolone acetonide product is the subject of an approved New Drug Application.

2.a. Fluocinolone Acetonide, Topical Solution, .01%

The Board originally proposed a MAC level of $0.1043 per ml based on a selling price of $6.26 per 60 ml package size. This was the wholesale price of Herbert Laboratories at the time the MAC limit was originally proposed.

Thirty-five comments were received that indicated that this form of fluocinolone acetonide was not available within the proposed MAC limit while five comments indicated the product could be provided within the limit.

A survey of Florida wholesalers and retailers indicated that four wholesalers reported that the product was not available within the proposed MAC limit while one reported it was available within the MAC limit. Further, the survey indicated that five wholesalers carried the Herbert Laboratories product. One hundred-eighty-nine retailers indicated they stock the Herbert Laboratories product in the 60 ml package size but there was no report on price level.

On March 19, 1980 after reviewing the record, the Board voted to increase the final MAC limit on fluocinolone acetonide, 0.01% topical solution to $0.1133 per ml to reflect price increases announced by Herbert after the MAC was first proposed. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

2.b. Fluocinolone Acetonide, Topical Cream, .01%

The Board originally proposed a MAC level of $0.0712 per Gm based on a selling price of $4.27 per 60 Gm package size. This was the wholesale price of Herbert Laboratories, the only alternative source of supply.

Thirty-six written comments indicated that this product was not available within the proposed MAC limit. Three written comments stated that the product was available within the proposed MAC limit.

A survey of Florida wholesalers and retailers indicated that six wholesalers stated that the product was not available within the proposed MAC. No wholesaler reported that the product was available within the proposed MAC limit. Four wholesalers indicated they stock the Herbert Laboratories product in the 60 Gm package size. The survey made no mention of retailer availability.

These comments and other information supplied to the Board indicated that fluocinolone acetonide, 0.01% topical cream was not widely and consistently available at the original proposed MAC limit of $0.0712 per Gm.

On March 19, 1980 after reviewing the record, the Board voted to increase the proposed final MAC limit on fluocinolone acetonide, 0.01% topical cream to $0.0833 per Gm to reflect price increases announced by Herbert after the MAC was first proposed. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

2.c. Fluocinolone Acetonide, Topical Cream, .025%

The Board originally proposed a MAC level of $0.2087 per Gm based on a selling price of $3.13 per 15 Gm package size. This was the wholesale price of Herbert Laboratories, the only alternative source of supply.

Thirty-six written comments were received indicating that this product was not available within the proposed MAC limit. Three written comments stated that the product was available within the proposed MAC limit.

A survey of Florida wholesalers and retailers indicated six wholesalers reported that the product was not available at the proposed MAC limit. No wholesaler reported that the product was available within the proposed MAC limit. The survey indicated that eightythree retailers stock the Herbert Laboratories product in the 15 Gm package size but made no mention of price level.

These comments and other information supplied to the Board indicated that fluocinolone acetonide, 0.025% topical cream was not widely and consistently available at the

original proposed MAC limit of $0.2087 per Gm.

On March 19, 1980 after reviewing the record, the Board voted to increase the proposed final MAC limit on fluocinolone acetonide, 0.025% topical cream to $0.2266 per Gm to reflect price increases for the product announced by Herbert after the MAC was first proposed. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

3. Griseofulvin, Microcrystalline, Oral Table, 500 mg

The Board originally proposed a MAC level of $0.2818 per tablet based on a selling price of $16.91 per 60 tablet package size. This is the wholesale price for Ayerst (subsidiary of the 2nd largest ethical drug firm, American Home Products). Ayerst currently supplies 18 percent of this market, by dollar volume, and its product is purchased by both small and medium size independent pharmacies at or below the $0.2818 level.

On August 3, 1979 in response to the Board's request, the FDA notified the Board that griseofulvin is a certifiable antibiotic for which batch certification and an approved Form 5 or 6 is required for marketing. The three firms which hold approved Forms 6 for microcrytalline griseofulvin have performed satisfactory bioavailability studies. A University of Tennessee study also showed the three commercially marketed products to be bioequivalent. There are public standards for all griseofulvin products published in the *Code of Federal Regulations* (21 CFR 449.120) and the *United States Pharmacopeia*. The FDA knows of no pending regulatory or quality problem which would prevent or delay the establishment of a MAC limit for griseofulvin microcrystalline, 500 mg tablets. The FDA does not consider microcrystalline griseofulvin products equivalent to the ultra-microcrystalline products, and therefore the FDA recommended that the proposed MAC limit should be confined to the microcrystalline products.

Several written comments were received relating to the proposed MAC limit for microcrystalline griseofulvin, 500 mg oral tablets and one manufacturer submitted written comments and appeared at the public hearing on March 12, 1980.

Sixteen written comments were received stating that the product was not available at the proposed MAC limit. Twelve written comments were received indicating that the product was available within the proposed MAC limit.

The results of a survey of Florida wholesalers and retailers were mixed as to current product inventory. The survey indicated that five wholesalers reported that the product was available within the proposed MAC limit while one wholesaler indicated that the product was not available within the MAC limit. The survey reported that 215 retailers stock the product of Schering, McNeil and Ayerst but gave no mention of price levels.

On March 12, 1980 a public hearing was held regarding the proposed MAC limits. Schering-Plough Corporation of Kenilworth, New Jersey was afforded an opportunity for oral presentation at the hearing. Schering-Plough stated its position "that if a MAC is to be set for this group of drugs, it should be based on Schering's 500 mg tablet, Fulvincin U/F." Schering stated, "We believe that the recent University of Tennessee study comparing Fulvincin 500 mg's with other 500 mg griseofulvin tablets clearly establishes Schering's product as one of the best, most available—bioavailable profile of all. We believe we have a superior product. In selecting a drug on the basis of which to establish a MAC the Board should follow the advice of the Tennessee investigators and choose Schering's Fulvincin U/F, 500 mg's as the standard."

At the hearing, the FDA restated its original position that all of the products being considered are therapeutically equivalent and hence suitable for a MAC limit. Addressing Schering's point that its product should be used as a MAC standard, the FDA stated that the selection of the standard for bioequivalent studies is an issue that rests more properly before the FDA. It is not an issue that should be addressed to the Pharmaceutical Reimbursement Board. In considering the oral presentation of Schering-Plough at the public hearing, the Board is in agreement with FDA that the issue of a reference standard for bioequivalence studies was continually confused with the MAC process. Further, the Board appropriately relies upon the FDA and independent consultants for assurance and technical expertise regarding drug product equivalence. Neither of the Board's consultants nor the FDA felt that there was any bioequivalence or health problem that should delay or prevent the determination of a MAC limit on this drug.

Written comments and other information supplied to the Board indicated that griseofulvin microcrystalline, 500 mg oral tablets were widely and consistently available at the originally proposed MAC limit of $0.2818 per tablet.

On March 19, 1980 after reviewing the record, the Board voted to establish the proposed final MAC limit on griseofulvin microcrystalline, 500 mg oral tablets at $0.2818 per tablet. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

4. Methenamine Hippurate, Oral Tablet, 1 Gm

The Board originally proposed a MAC level of $0.1453 per tablet based on a selling price of $14.53 per 100 tablet package size. This is the price at the 70th percentile as reflected in the HCFA survey of the only alternative supplier, Riker Laboratories (the 33rd largest ethical drug firm). Riker currently supplies 28 percent of this market, by dollar volume, and its product is purchased by both small and medium size independent pharmacies at or below the $0.1453 level.

On August 3, 1979, in response to the Board's request, the FDA notified the Board (July 27, 1978 memorandum) that methenamine hippurate was included in its review of MAC Group 5. At that time the FDA stated that there were two manufacturers of this drug, both holding approved New Drug Applications. FDA also stated that they were not aware of any bioequivalence or quality problems which should prevent or delay the establishment of a MAC limit for methenamine hippurate, 1 Gm tablets. There had been no change in either the bioequivalence or marketing situation of the drug since that time, and FDA had no reason to change its recommendation.

The Board received several written comments relating to methenamine hippurate 1 Gm oral tablets and the proposed MAC limit for this product. Thirty-eight written comments were received stating that the product was not available within the proposed MAC limit. Two written comments were received indicating that the product was available within the MAC limit.

A survey of Florida wholesalers and retailers stated that six wholesalers reported that the product was not available within the proposed MAC limit of $0.1453 per tablet. The survey, however, reported that 216 retailers stock the product by Riker and 217 stock the product by Merrell-National but made no mention of price levels.

Written comments received and staff information developed during the comment period indicated that recent price increases had occurred for

methenamine hippurate 1 Gm tablets. The price of the Merrell-National product has increased to $0.1860 per tablet and the price of the Riker product has increased to $0.1596 per tablet. The Board has taken these price changes into account in its final determinations.

Written comments and other information supplied to the Board indicated that methenamine hippurate, 1 Gm oral tablets were not widely and consistently available at the originally proposed MAC limit of $0.1452 per tablet.

On March 19, 1980 after reviewing the record, the Board voted to increase the proposed final MAC limit on methenamine hippurate, 1 Gm tablet to $0.1596 per tablet to reflect price increase announced by Riker after the MAC was first proposed. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

5. Dicloxacillin Sodium, 250 mg Capsules and 62.5 mg/5 cc Oral Solution

On August 3, 1979, in response to the Board's request, the FDA notified the Board that dicloxacillin sodium is a certifiable antibiotic for which batch certification and an approved Form 5 or 6 is required for marketing. The three firms which hold approved Forms 5 or 6 for dicloxacillin sodium capsules and the two firms which hold approved Forms 5 or 6 for dicloxacillin sodium oral solution (labeling for the product declares it to be an oral suspension) have completed acceptable bioavailability studies. The FDA knows of no pending regulatory or quality problems which should prevent or delay the establishment of MAC limits for dicloxacillin sodium preparations.

5.a. Dicloxacillin Sodium, Oral Capsule, 250 mg

The Board originally proposed a MAC level of $0.2215 per capsule based on a selling price of $22.15 per 100 capsule package size. This was the wholesale price of Beecham Laboratories (a subsidiary of the 29th largest ethical drug firm, Beecham-Massengill). Beecham supplies approximately 5 percent of this market, by dollar volume, and their product is purchased by both small and medium independent pharmacies at or below the proposed MAC level.

The Board received several written comments for dicloxacillin sodium, oral capsules, 250 mg. Forty written comments indicated that the product was not available within the MAC limit. One written comment indicated that the product was available within the proposed MAC limit. Beecham Laboratories provided the Board with information stating that the proposed MAC limit does not reflect the current market situation with regard to this product and that Beecham's retail list price for dicloxacillin sodium oral capsules 250 mg was $0.2867 per capsule.

A survey of Florida wholesalers and retailers indicated that six wholesalers reported that the product was not available within the proposed MAC limit. The survey also indicated that none of the wholesalers stock the Beecham product and that two retailers stock the Beecham product but provided no report of price levels.

A State Pharmaceutical Association commented that the Beecham product was often back ordered and shipments made at a later date. The Association stated that as a result of FDA procedures, batch approval is somewhat slower with dicloxacillin than with most antibiotics. The comment requested that the Board inquire into the situation. In response to the Board's inquiry, the FDA stated that any delay related to batch approval of dicloxacillin was only a transient event and it did not foresee a continuing problem. Further, the FDA stated that any Beecham delay may have been related to the certification by FDA of Beecham's new antibiotic facility. The Board is satisfied with the FDA's asurance that there is no delay in its certification process for dicloxacillin sodium.

The Board considered the apparent price changes that the drug had undergone since the originally proposed MAC limit was developed. The originally proposed MAC price was $.2215 per capsule based upon the availability of the product at or below the HCFA survey price of Beecham. The current Average Wholesale Price price of Beecham is $.2867. Ayerst (subsidiary of American Home Products, the second largest ethical drug firm) has a wholesale price of $.2690 and currently supplies 11 percent of the market, by dollar volume.

Written comments and other information supplied to the Board indicated that dicloxacillin sodium, 250 mg oral capsules were not widely and consistently available at the originally proposed MAC limit of $0.2215 per capsule. On March 19, 1980 after reviewing the record, the Board voted to increase the proposed final MAC limit on dicloxacillin sodium, 250 mg oral capsules to $0.2690 per capsule. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

5.b. Dicloxacillin Sodium, Oral Suspension, 62.5 mg/5 ml

The Board orginally proposed a MAC level of $0.0236 per ml based on a selling price of $1.89 per 80 ml package size. This was the wholesale price of Wyeth Laboratories (subsidiary of the 2nd largest ethical drug firm). Wyeth currently supplies 9 percent of this market, by dollar volume, and its product is purchased by medium size independent pharmacies at the $0.0236 level.

The Board received several written comments regarding dicloxacillin sodium oral suspension, 62.5 mg/5 ml. Thirty-four written comments indicated that the product was not available within the proposed MAC limit. One comment indicated that the product was available within the proposed MAC limit.

A survey of Florida wholesalers and retailers indicated that six wholesalers reported that the product was not available within the proposed MAC limit. Only four wholesalers stock the Wyeth product, eighty-four retailers stock the Wyeth product but provided no report of price levels.

A comment stated that the 80 ml package size was available only from Wyeth Laboratories and other package sizes, available from other manufacturers, are now frequently being prescribed.

The Board reviewed the record on dicloxicillin sodium, oral liquid 62.5 mg/5ml. The Board determined that the package size used to establish the MAC limit was 80 ml. Prescriptions of 100 ml and 200 ml are common, but there is no source for these package sizes at or below the MAC limit. Thus, if an 80 ml package had to be used to fill a 100 ml or 200 ml prescription, there would be considerable waste, which is not covered by the MAC. For example, a prescription for 100 ml would use one 80 ml package and 20 ml of a second package, leaving 60 ml of waste from the second package. There would be no way that full reimbursement could be made since reimbursement would apply only to the quantity prescribed.

These comments and other information supplied to the Board indicated that dicloxacillin sodium 62.5 mg/5ml oral liquid was not a suitable candidate for a MAC limit. Therefore, on March 19, 1980 after reviewing the record, the Board voted not to establish a MAC limit on dicloxacillin sodium 62.5 mg/5ml.

6. Quinidine Sulfate, Oral Tablet, 200 mg

The Board originally proposed a MAC level of $0.0645 per tablet based on a selling price of $6.45 per 100 tablet package size. This is the price, reflected in the HCFA survey of the largest supplier of this product, Parke Davis (a subsidiary of the 7th largest ethical drug firm, Warner Lambert). Parke Davis currently supplies 59 percent of this market, by dollar volume, and its product is purchased by small and medium size pharmacies at the $0.0645 level according to the HCFA survey.

On August 3, 1979, in response to the Board's request, the FDA notified the Board that quinidine sulfate is a new drug for which an approved New Drug Application is required for marketing. It is a drug which poses a potential bioequivalence problem, but all firms having approved products have demonstrated the bioavailability and bioequivalence of their products. In addition, the firms who hold approved applications have been required to pass the *United States Pharmacopeia* dissolution test which has been correlated with good product performance. A bioequivalence requirement regulation for quinidine sulfate tablets is pending, but the FDA did not expect this requirement to differ significantly from the conditions met by previously approved products. There are public standards for the quality of quinidine sulfate tablets in the *United States Pharmacopeia*. The FDA did not know of any pending regulatory or quality problem which should prevent or delay the establishment of a MAC limit for quinidine sulfate tablets.

A number of written comments were received regarding quinidine sulfate, 200 mg tablets and the proposed MAC limit. Twenty-seven comments indicated that the product was not available within the proposed MAC limit. Four comments indicated that the drug was available within the proposed MAC limit.

A survey of Florida wholesalers and retailers indicated that six wholesalers reported that the product was available within the proposed MAC limit. The survey indicated that two wholesalers stock the Parke Davis product in the 100 tablet package size; 74 retailers stock the Parke Davis product; 34 retailers stock the Lederle product and 109 retailers stock a generic product other than that cited in the survey. The survey made no mention of retailer price levels.

A State pharmaceutical association commented that in addition to not being available at the proposed MAC prices, the limited availability of this product from foreign sources make it susceptible to frequent price increases, which make it a very poor MAC candidate. The Board notes that it has no control over any product source or price fluctuations in the marketplace. However, should a major supply problem develop with quinidine sulfate, there are procedures whereby the Board can either increase or suspend a MAC limit.

Originally, the Board had proposed a MAC limit of $.0645 per tablet based upon the HCFA survey price. It was subsequently learned that this price was reflective of a few very large purchaes in only two regions of the country. Written comments and other information supplied to the Board indicated that quinidine sulfate, 200mg oral tablets were not widely and consistently available at the originally proposed MAC limit of $0.0645 per tablet. After review of the recent price levels, the Board voted to establish a proposed final MAC determination of $.0688 per tablet. This determination was based upon the availability of the product in that the drug can be obtained at or below the $.0688 per tablet price level from Purepac Pharmaceuticals and other suppliers.

On March 19, 1980 after reviewing the record, the Board voted to increase the propose final MAC limit on quinidine sulfate, 200 mg oral tablets to $0.0688 per tablet. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

7. Hydrochlorothiazide, Oral Tablets 25 and 50 mg

Final MAC limits on hydrochlorothiazide 25 and 50 mg tablets were effective on June 28, 1979 (See 44 FR 28104). Since that time a number of lower prices have appeared in the marketplace, and in response, the Board has decided to consider new lower MAC limits on hydrochlorothiazide 25 and 50 mg tablets.

7.a. Hydrochlorothiazide, Oral Tablet, 25 mg

The Board originally proposed a MAC level of $0.0152 per tablet based on a selling price of $1.52 per 100 tablet package size. This was the wholesale price of Smithkline (the 5th largest ethical drug firm). The *Red Book* lists an additional 23 suppliers below the $1.52 per 100 price. Smaller independent pharmacies have purchased this product at or below the $0.0152 level.

The Board received several comments regarding hydrochlorothiazide, oral tablets, 25 mg. Two written comments were received indicating the product was not available within the proposed MAC limit. Eighteen written comments were received indicating that the product was available within the proposed MAC limit. The Board has been assured by Smithkline that it will be able to adequately supply those who wish to purchase this product from them.

A survey of Florida wholesalers and retailers indicated that six wholesalers reported the product was available within the proposed MAC limit. No wholesaler reported that the product was unavailable within the proposed MAC limit.

Written comments and other information supplied to the Board indicated that hydrochlorothiazide, 25 mg oral tablets were widely and consistently available at the originally proposed MAC limit of $0.0152 per tablet.

On March 19, 1980 after reviewing the record, the Board voted to establish the proposed final MAC limit on hydrochlorothiazide, 25 mg oral tablets at $0.0152 per tablet. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

7.b. Hydrochlorothiazide, Oral Tablets, 50 mg

The Board originally proposed a MAC level of $0.0194 per tablet based on a selling price of $1.94 per 100 tablet package size. This is the wholesale price of Smithkline. The *Red Book* lists 29 additional suppliers below the $1.94 per 100 price. Medium independent pharmacies have purchased this product at or below the proposed level.

The Board received written comments for hydrochlorothiazide oral tablets, 50 mg. Two comments indicated that the product was not available within the proposed MAC limit. Eighteen comments indicated that the product was available within the proposed MAC limit. The Board has been assured by Smithkline that it will be able to adequately supply those who wish to purchase this product.

A survey of Florida wholesalers and retailers indicated that six wholesalers reported the product was available within the proposed MAC limit. No wholesaler reported that the product was unavailable within the proposed MAC limit.

Written comments and other information supplied to the Board indicated that hydrochlorothiazide, 50 mg oral tablets were widely and consistently available at the original proposed MAC limit of $0.0194 per tablet.

On March 19, 1980 after reviewing the record, the Board voted to establish the proposed final MAC limit on hydrochlorothiazide, 50 mg oral tablets at $0.0194 per tablet. The Board believes this price level assures wide and consistent availability of the product.

The Administrator of HCFA concurred on October 10, 1980.

Dated: October 10, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

Date: October 10, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

[FR Doc. 80-33128 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-35-M

Health Resources Administration

National Advisory Council on Health Professions Education; Meeting

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 body scheduled to meet during the month of November 1980:

Name: National Advisory Council on Health Professions Education.
Date and time: November 17-18, 1980, 8:30 a.m.
Place: Conference Room 425A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.
Open November 17, 8:30 a.m.-3:00 p.m.
Closed remainder of day.
Open November 18 all day.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: the meeting will be closed to the public on November 17, from 3:00 p.m. to 5:00 p.m. for the review of applications for grants for Financial Distress. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463. The agenda for the open portion of the meeting will include: report of the Administrator; welcome and opening remarks; budget update; health promotion and disease prevention; discussion of CMENAC Report; review of council operating procedures; future agenda items; consideration of minutes of previous meeting; and discussion of future meeting dates.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Bureau of Health Professions, Health Resources Administration, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Date: October 21, 1980.

Irene D. Skinner,

Advisory Committee Management Officer, HRA.

[FR Doc. 80-33191 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-83-M

Office of the Secretary

Social Security Administration; Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Sections SR.00, SR.10 and SR.20 of the SSA statement, as published in the **Federal Register** on August 7, 1979 (44 FR 46347-50) describe the mission, organization and functions of SSA's Office of Policy (OP). Sections SL.00, SL.10 and SL.20 of the SSA statement, also published in the **Federal Register** on August 7, 1979 (44 FR 46324-28), describe the mission, organization and functions of SSA's Office of Assessment.

Notice is given that section SR.20 is revised to reflect the reporting relationship of OP's Office of the Actuary (OACT) (pp. 46347-48) to the Commissioner of Social Security. Notice is also given that sections SL.10 and SL.20 are revised to retitle OA's Program Integrity Staff (pp. 46324 and 46327-28) as the Field Integrity Staff.

The revised OP and OA material reads as follows:

Sec. SR.20 *The Office of Policy*—(Functions) (p. 46347)

D. *The Office of the Actuary* (SRG) (pp. 46347-48)

Add as the last sentences:

"Although organizationally located in the Office of Policy for administrative support purposes, the Office of the Actuary reports directly to the Commissioner on trust fund fiduciary matters."

Sec. SL.10 *The Office of Assessment*—(Organization) (p. 46324)

G. *The Field Assessment Offices* (SLF1-SLFX)

4. Retitle "The Program Integrity Staff (SLF14-SLFX4)" as "The Field Integrity Staff (SLF14-SLFX4)."

Sec. SL.20 *The Office of Assessment*—(Functions) (p. 46324)

G. *The Field Assessment Offices* (pp. 46327-28) (SLF1-SLFX)

4. Retitle *"The Program Integrity Staff* (SLF14-SLFX4)" as *"The Field Integrity Staff* (SLF14-SLFX4)."

Dated: October 10, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-33215 Filed 10-23-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Water and Power Resources Service

Contract Negotiations With Buffalo Rapids Irrigation Project, District No. 2, Buffalo Rapids Project, Montana; Repayment of Small Reclamation Projects Act Loan

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment negotiations, the Water and Power Resources Service intends to begin negotiating a contract with the Buffalo Rapids Irrigation Project, District No. 2, Montana, for repayment of a loan, pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended.

The Buffalo Rapids Project, which is located along the Yellowstone River from 25 miles northeast of Miles City to Glendive and includes parts of Custer, Prairie, and Dawson counties, Montana, was organized in 1937. The Buffalo Rapids Project consists of two districts, No. 1 and No. 2. District No. 2 is composed of three units, Shirley, Terry, and Fallon, totaling 9,465 irrigable acres. District No. 2 presently operates four pumping plants which are operated in summer months by temporary personnel. The stations are manually operated and are generally lacking protective or safety devices such as bearing temperature sensors, phase sensors, and water level sensors.

District No. 2 has made application to Water and Power Resources Service for loan funds to rehabilitate the project under provisions of the 1956 Act. The loan funds would be used to replace pumps and motors at three of the four pumping plants, automate and centralize control of the pumping plants through a telemetry control system, and rehabilitate several areas of the distribution system to ensure continued reliable delivery of irrigation water. The total project cost has been estimated to be $1,485,000, of which $76,000 will be contributed by the district and $1,409,000 will be the loan amount.

The terms and conditions of the proposed contract are ultimately dependent upon the Secretary of the

Interior's approval of the district's application for the loan and his approval of the form of the proposed contract. In addition, the approved loan application must be submitted to the Congress for its review at least 60 days prior to the appropriation of funds by the Congress for the project.

All meetings scheduled by the Water and Power Resources Service with District No. 2 for the purpose of discussing terms and conditions of the proposed repayment contract will be open to the general public for observation. Advance notice of meetings will be furnished to those parties having submitted a written request for a meeting schedule at least 1 week prior to any meeting. Requests should be addressed to Acting Regional Director, Water and Power Resources Service, Attention Code UM-440, P.O. Box 2553, Billings, Montana 59103. All written correspondence concerning the proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a public hearing may be held, if necessary, and a 30-day period will be allowed for receipt of written comments from the public.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact Mr. William E. Crosby, Chief, Economics and Repayment Branch, Division of Water and Land, at the address stated above or by telephone (406) 657-6413.

Dated: October 20, 1980.

Aldon D. Nielsen,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-33160 Filed 10-23-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. § 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. § 10524(b).

1. Parent corporation and address of principal office: Bristol-Myers Company, 345 Park Avenue, New York, New York 10154.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Clairol Incorporated, 345 Park Avenue, New York, New York 10154.

(b) Mead Johnson & Company, 2404 Pennsylvania Street, Evansville, Indiana 47721.

(c) Westwood Pharmaceuticals Inc., 468 Dewitt Street, Buffalo, New York 14213.

(d) The Pelton & Crane Company, P.O. Box 3664, Charlotte, North Carolina 28203.

(e) Zimmer USA, Inc., 727 North Detroit Street, Warsaw, Indiana 46580.

(f) Unitek Corporation, 2724 South Peck Road, Monrovia, California 91016.

(g) The Drackett Products Company, 5020 Spring Grove Avenue, Cincinnati, Ohio 45232.

(h) Drackett, Inc., 5020 Spring Grove Avenue, Cincinnati, Ohio 45232.

(i) The Lenk Company, Claire Street, Franklin, Kentucky 42134.

(j) The Drackett Company, 5020 Spring Grove Avenue, Cincinnati, Ohio 45232.

(k) Lenk Manufacturing Co., Inc., Claire Street, Franklin, Kentucky 42134.

1. Parent corporation and address of principal office: C-I-L Inc., 630 Dorchester Blvd. West, Montreal, P.Q., Canada H3B 1S6.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) C-I-L Chemicals, Inc., 800 Marion (P.O. Box 128), River Rouge, Michigan 48218, U.S.A.

(b) Chipman Inc., 400 Jones Road (P.O. Box 9100), Stoney Creek, Ontario, Canada L8G 3Z1.

(c) C-I-L Paints Inc., Vaughan Centre, 8200 Keele Street, Concord, Toronto, Canada L4K 1B6.

1. Parent corporation and address of principal office: Carroll Building Material Co., Inc., 1717 2nd St. NW., Albuquerque, NM 87125.

2. Wholly-owned subsidiary which will participate in the operations, and address of its respective principal office: Wholesale Roofing of New Mexico, P.O. Box 25785, Albuquerque, NM 87125.

1. Parent corporation: Colgate-Palmolive Company, 300 Park Avenue, New York, N.Y. 10022.

2. Wholly-owned subsidiaries:

Canaan Products Inc., 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive Company, Distr., San Juan, Puerto Rico 00905

Colgate-Palmolive Export Company, 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive General Corp., 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive International Incorporated, 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive (Western Hemisphere) Inc., 300 Park Avenue, New York, N.Y. 10022

Charles A. Eaton Company, 147 Centre St., Brockton, Mass. 02403

Eaton International Sales, Inc., 147 Centre St., Brockton, Mass. 02403

S. M. Edison Chemical Company, Inc., 300 Park Avenue, New York, N.Y. 10022

NDM Corp., 3040 East River Road, Dayton, Ohio 45439

MedaSonics, Inc., 340 Pioneer Way, Mountainview, Calif. 94042

RG Assets Corp., 300 Park Avenue, New York, N.Y. 10022

Galree Products Co., Inc., 300 Park Avenue, New York, N.Y. 10022

Lournay Ltd., 300 Park Avenue, New York, N.Y. 10022

Mission Hills Property Corporation, P.O. Box 1743, Palm Springs, Calif. 92262

Tentcorp, Inc., P.O. Box 1743, Palm Springs, Calif. 92262

Norwood International Incorporated, 300 Park Avenue, New York, N.Y. 10022

Olive Music Publishing Corporation, 300 Park Avenue, New York, N.Y. 10022

Purity Music Publishing Corporation, 300 Park Avenue, New York, N.Y. 10022

Paramount Research, Inc., 300 Park Avenue, New York, N.Y. 10022

AJD Cap Corp., 3301 Castlewood Road, Richmond, Va. 23234

Princess House, Inc., 620 Spring St., No. Dighton, Mass. 02764

Louie Glass Company, Inc., East Third St., Weston, W. Va. 26452

Hampshire House Enterprises, Inc., Warwick, R.I. 02888

Hampshire Lead Crystal, Inc., 455 Somerset Ave., No. Dighton, Mass. 02764

Sunset Yatch Charters, Inc., 455 Somerset Ave., No. Dighton, Mass. 02764

Sterno Corporation, 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive (Research & Development) Inc., Brussels, Belgium

Marisa Christina, Incorporated, 1410 Broadway, New York, N.Y. 10018

Marisa Christina for Men, Inc., 1410 Broadway, New York, N.Y. 10018

Marisa Christina for Children, Inc., 1410 Broadway, New York, N.Y. 10018

Respiratory Care, Inc., 900 W. University Drive, Arlington Heights, Ill. 60004

Steripak Laboratories, Inc., 900 W. University Drive, Arlington Heights, Ill. 60004

Evacupak, Inc., 8521 Zionsville Rd., Indianapolis, Ind. 46268

Colgate-Palmolive (Caribbean) Inc., 300 Park Avenue, New York, N.Y. 10022

Colgate-Palmolive Cia., Cali, Colombia
Colgate-Palmolive, Ltd., 300 Park Avenue, New York, N.Y. 10022 (Inactive)
Colgate-Palmolive (Dominican Republic) Inc., Santo Domingo, Dominican Republic
Colgate-Palmolive (Central America) Inc., 300 Park Avenue, New York, N.Y. 10022
Colgate-Palmolive (Taiwan) Ltd., Taipai, Taiwan (Inactive Corporation)
The Kendall Company, 1 Federal St., Boston, Mass. 02110
Southern Athletic, Inc., Knoxville, Tenn. 37901
Riverside Athletic Goods, Inc., Cherryville, N.C. 28021
Kendall International Trading Co., 1 Federal St., Boston, Mass. 02110
Consignment Sales Co., 1 Federal St., Boston, Mass. 02110
Plastronics, Inc., 407 E. Michigan Ave., Milwaukee, Wis. 53202
Helena Rubinstein, Inc., 300 Park Avenue, New York, N.Y. 10022
Helena Rubinstein, P.R., Inc., San Juan, Puerto Rico 00924
Fashion and Beauty Industries, Inc., 300 Park Avenue, New York, N.Y. 10022
Riviana Foods Inc., P.O. Box 2636, Houston, Tex. 77019
Pangburn Company, Inc., 1900 St. Loop, Ft. Worth, Tex. 76119
Thurman's, Inc., 3916 Crooked Run Rd., No. Versailles, Pa. 15137
River Brand Rice Mills, Inc., P.O. Box 2636, Houston, Tex. 77019
Romanoff Caviar Company, 100 Galway Place, Teaneck, N.J. 07666
Westfield-Sommers Foods, Inc., 312 Merchant St., Tremont, Mich. 49412
Hills Packing Co., Inc., 401 Harrison, Topeka, Kans. 66603
Pet Chemicals Inc., 7781 N.W. 73rd St., Medley, Fla. 33166
Artex Hobby Products, Inc., 711 West Vine St., Lima, Ohio 45801
Homelum Corporation, P.O. Box 2636, Houston, Tex. 77019
Ranch House West, Inc., P.O. Box 2636, Houston, Tex. 77019
Riviana International, Inc., P.O. Box 2636, Houston, Tex. 77019
Food Engineering International, Inc., P.O. Box 2636, Houston, Tex. 77019
Koko Moko Corporation, P.O. Box 2636, Houston, Tex. 77019
Thurman Phillips Investment Corp., 3916 Crooked Run Road, No. Versailles, Pa. 15137
Thurman Chocolate Company, 3916 Crooked Run Road, No. Versailles, Pa. 15137
Southern Rice Sales Co., Inc., P.O. Box 2636, Houston, Tex. 77019
Texiana Restaurants Inc., P.O. Box 2636, Houston, Tex. 77019
Caviar Packing Co., Inc., 100 Galway Place, Teaneck, N.J. 07666
Russian Caviar Co., Inc., 100 Galway Place, Teaneck, N.J. 07666
Trini's Restaurants, Inc., P.O. Box 2636, Houston, Tex. 77019
Restaurant Industries Corp., P.O. Box 2636, Houston, Tex. 77019
California Convenience Foods, Inc., P.O. Box 2636, Houston, Tex. 77019
Colormaid Manufacturing Co., 711 W. Vine St., Lima, Ohio 45801
7 West Foods, Inc., P.O. Box 2636, Houston, Tex. 77019
Riviana Restaurant Corp., P.O. Box 2636, Houston, Tex. 77019
Ranch House of America, Inc., P.O. Box 2636, Houston, Tex. 77019
Clark, Best and Associates, 7760 N.E. 4th Court, Miami, Fla. 33138
Ranch House Franchise Management, Inc., P.O. Box 2636, Houston, Tex. 77019
R. H. of Duval, P.O. Box 2636, Houston, Tex. 77019
Skin Care Products, Inc., P.O. Box 2636, Houston, Tex. 77019
Brandt-Soreson-Salt, Inc., P.O. Box 2636, Houston, Tex. 77019
Riviana International Sales Corp., P.O. Box 2636, Houston, Tex. 77019
Mark Morris Associates, Inc., P.O. Box 2636, Houston, Tex. 77019
I.S.E., Inc., P.O. Box 2636, Houston, Tex. 77019
NDM Corporation of Puerto Rico, Inc., 3040 East River Road, Dayton, Ohio 45439
Mission Hills Construction Co., P.O. Box 1743, Palm Springs, Calif. 92262
Colgate-Palmolive, Inc., 300 Park Avenue, New York, N.Y. 10022
The Kendall Company, 1 Federal St., Boston, Mass. 02110
Helena Rubinstein of Brazil, Inc., 300 Park Avenue, New York, N.Y. 10022
R.G. Assets Corp., 300 Park Avenue, New York, N.Y. 10022
79th & 29th Corp., P.O. Box 2636, Houston, Tex. 77019

1. Parent corporation: Compo Industries, Inc., 125 Roberts Rd., Waltham, MA 02154.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Pandel/Bradford Corp., 200 Market St., Lowell, MA.

(2) Styletek Division, 1857 Middlesex St., Lowell, MA.

(3) Compo Shoe Machinery of Canada, 8645 Boul.Langelier, St. Leonard, Montreal, Quebec, Canada.

(4) Compo Chemical Corp., Branch St., Mansfield, MA.

(5) Compo Industries, Inc. of N.J., 170 W. Commercial Ave., Moonachie, N.J.

(6) Pandel Chemical, 21 River Rd., Cartersville, GA.

(7) Compo Industries, Inc., 3631 Forest Park Blvd., St. Louis, MO.

1. Parent corporation and address of principal office: Crown Zellerbach Corporation, One Bush Street, P.O. Box 3475, San Francisco, CA 94119.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

Crown Zellerbach Corporation, One Bush Street, P.O. Box 3475, San Francisco, CA 94119
Pump Recycling Northeast Corporation, West River Road and Route 197, South Glens Falls, N.Y.
St. Francisville Paper Company, One Bush Street, San Francisco, CA 94119

1. The parent corporation and address of principal office is: The Firestone Tire & Rubber Company, 1200 Firestone Parkway, Akron, OH 44317.

2. Wholly-owned subsidiaries and divisions which will participate in the operations and addresses of their respective principal offices are:

(a) Firestone Foam Products Company, 823 Waterman Ave., Box 4159, East Providence, RI 02914.

(b) Firestone Plastics Company, Firestone Blvd., Box 699, Pottstown, PA 19464.

(c) Firestone Synthetic Fibers Company, Box 450, Hopewell, VA 23860.

(d) Firestone Synthetic Rubber & Latex Company, 381 West Wilbeth Rd., Akron, OH 44301.

(e) Firestone Natural Rubber & Latex Company, 1200 Firestone Parkway, Akron, OH 44317.

(f) Firestone Textiles Company, 1101 W. Second Ave., Box 1278, Gastonia, NC 28052.

(g) Firestone Wire and Cable Company, Box 908, Danville, KY 40422.

(h) Electric Wheel Company, 1120 North 28th St., Quincy, IL 62301.

(i) Hamill Manufacturing Company, 61166 Van Dyke Rd., Washington, MI 48094.

(j) Decor Metal Products, division of Firestone Canada, Inc., 140 Bay St., Midland, Ontario, Canada L4R 4L5.

(k) Firestone Industrial Products Company, 1700 Firestone Blvd., Noblesville, IN 46060.

(l) Firestone Coated Fabrics Company, Firestone Drive, Box 887, Magnolia, AR 71753.

(m) Firestone Steel Products Company, 1600 Firestone Parkway, Akron, OH 44301.

(n) Firestone Steel Products, a division of Firestone Canada, Inc., 31 Firestone Blvd., P.O. Box 2843, London, Ontario, Canada N6A 4H7.

(o) Firestone Canada, Inc., 1579 Burlington St., East, Box 400, Hamilton, Ontario, Canada L8N 3Ji.

(p) Firestone Textiles Company, a division of Firestone Canada, Inc., Woodstock, Ontario, Canada.

(q) Ravenna Arsennal, Inc., Ravenna, OH 44266.

(r) Firestone International Sales Corporation, 1200 Firestone Parkway, Akron, OH 44317.

(s) Firestone Interamerica Company, 1200 Firestone Parkway, Akron, OH 44317.

(t) The Dayton Tire & Rubber Company, P.O. Box 24011, Oklahoma City, OK 73124.

(u) The Fidesta Company, 500 North Hamilton Rd., Columbus, OH 43219.

1. Parent corporation and address of principal office: Ingersoll-Rand Company, P.O. Box 636, Woodcliff Lake, NJ 07675.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) California Pellet Mill Company, 1800 Folsom Street, San Francisco, CA 94103.

(b) California Pellet Mill International, Inc., 1800 Folsom Street, San Francisco, CA 94130.

(c) Frank M. Hill Machine Company, 50 School Street, Walpole, MA 02081.

(d) General Lock Company, 2401 Bayshore Blvd., San Francisco, CA 94119.

(e) Ingersoll-Rand Canada, Inc., 630 Dorchester Blvd. W., Montreal, Quebec H3B156.

(f) Ingersoll-Rand Equipment Corporation, 3 Century Drive, Parsippany, NJ 07054.

(g) Ingersoll-Rand Export Corporation, P.O. Box 636, Woodcliff Lake, NJ 07675.

(h) Ingersoll-Rand Financial Corporation, West 80 Century Road, Paramus, NJ 07652.

(i) Ingersoll-Rand Financial Services Corporation, West 80 Century Road, Paramus, NJ 07652.

(j) Ingersoll-Rand International, Inc., P.O. Box 636, Woodcliff lake, NJ 07675.

(k) Ingersoll-Rand Machinery & Equipment Corporation, P.O. Box 636, Woodcliff Lake, NJ 07676.

(l) Ingersoll-Rand Oilfield Producs Corporation, P.O. Box 1101, Pampa, Texas.

(m) Ingersoll-Rand Engineered Equipment Services, Eleven Greenway Plaza, Suite 1816, Houston, TX 77046.

(n) Ingersoll-Rand Research, Inc., P.O. Box 301, Princeton, NJ 08540.

(o) Ingersoll-Rand Services Company, P.O. Box 636, Woodcliff Lake, NJ 07675.

(p) Ingersoll-Rand Worldwide, Inc., P.O. Box 636, Woodcliff Lake, NJ 07675.

(q) Jenmar Estates, Inc., P.O. Box 636, Woodcliff Lake, NJ 07675.

(r) Kilian Manufacturing Company, 1728 Burnet Avenue, Syracuse, NY 13201.

(s) Knight Industries, Inc., P.O. Box 348, Broken Arrow, OK 74012.

(t) Lee Norse Company, P.O. Box 2863, Pittsburgh, PA 15230.

(u) McCartney Manufacturing Company, 635 West 12th Street, Baxter Springs, KS 66713.

(v) Northern Research Engineering Corporation, 39 Olympia Avenue, Woburn, MA 01801.

(w) S&S Corporation, Rt 3, Box 70, Cedar Bluff, VA 24609.

(x) Schlage Electronics Company, 3899 Hancock Expressway, Security, CO.

(y) Schlage Lock Company, 2401 Bayshore Blvd., San Francisco, CA 94119.

(z) Sier-Bath Gear Company, Inc., 9252 Kennedy Blvd., North Bergen, NJ 07047.

(aa) Terry Corporation, Lamberton Road, Windsor, CT 06095.

(bb) Terry Southwest, 5911 Schumacher Street, Houston, TX 77027.

(cc) Torrington Company, 59 Field Street, Torrington, CT 06790.

(dd) Von Duprin, Inc., 400 West Maryland, Indianapolis, IN 46225.

(ee) Western Land Roller Company, Hastings, NB 68901.

1. Parent Corporation and address of principal office: International Paper Company, 77 West 45th Street, New York, N.Y. 10036.

2. Wholly-owned subsidiaries and address of their respective operations:

(a) Mid-Continent Carton Corporation, 3025 W. Madison Street, Louisville, KY 40211.

(b) Bodcaw Company, Pineville Kraft Division, P.O. Box 870, Pineville, LA 71360.

(c) Bay Harbor Warehouse Corp., P.O. Box 528, Georgetown, S.C.

(d) Canadian International Paper Co., Sun Life Building, Montreal, Canada.

(e) PaPco, Inc., P.O. Box 160707, Mobile, Ala.

(f) Richmond Gravure, Inc., 34 Deepwater Terminal Road, Richmond, Va.

(g) Slaughter Industries, Inc., 10851 Miller Road, Dallas, Texas.

(1) The parent corporation: Kaibab Industries, Inc., at P.O. Box 20506, Phoenix, Arizona 85036.

(2) The wholly-owned subsidiary which will participate in the operations and address of its respective principal office is: Kaibab Transportation, Inc., P.O. Box 20506, Phoenix, Arizona 85036.

1. Parent Corporation and address of principal office: Kellogg Company, 235 Porter Street, Battle Creek, Michigan 49016.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective offices:

(a) Fearn International Inc., 9353 Belmont Avenue, Franklin Park, Illinois 60131;

(b) Kellogg Sales Company, 235 Porter Street, Battle Creek, Michigan 49016;

(c) Mrs. Smith's Frozen Foods Co., South and Charlotte Streets, Pottstown, Pennsylvania 19464;

(d) Salada Foods Inc., 235 Porter Street, Battle Creek, Michigan 49016.

1. Parent corporation: Kimball International, Inc., 1549 Royal Street P.O. Box 460, Jasper, Indiana 47546.

2. Wholly-owned subsidiaries:

Indiana Hardwoods, P.O. Box 309, Chandler, Indiana 47610

Lafayette Mfg. Co., P.O. Box 166, Lafayette, Tenn. 37083

Greensburg Mfg. Co., P.O. Drawer "J", Greensburg, KY 42743

Dale-Wood Mfg., P.O. Box 317, Dale, Indiana 47523

West Jefferson Wood Products, Inc., P.O. Box 389, West Jefferson, North Carolina 28694

Evansville Veneer & Lumber Company, 100 South Kentucky Avenue, Evansville, IN 47714

Chandler Veneers, 740 West Washington St., Chandler, IN 47610

Jasper Laminates, 1650 Cherry Street P.O. Box 629, Jasper, Indiana 47546

Jasper-American Mfg. Co., P.O. Box 378, Henderson, KY 42420

Batesville American Mfg. Co., Box 828 198 Hwy 51 South, Batesville, Mississippi 38606

McAllen-American Corporation, 6401 33rd Street, McAllen, Texas 78501

Kimball Piano & Organ Co., Piano Division, French Lick, Indiana 47432

Kimball Piano & Organ Co., Spinet Division, R. R. 2 Hwy 145, French Lick, Indiana 47432

Kimball Piano & Organ Co., Electronic Division, 1038 East 15th Street, Jasper, Indiana 47546

Conn Keyboards, Inc., 400 S. Buncombe Road, Greer, S.C. 29651

Krakauer Piano Company, P.O. Box 301, Berlin, Ohio 44610

Kimball Office Furniture Co., Hwy. 60 Box C, Borden, Indiana 47106

National Office Furniture Co., P.O. Box 155 Hwy. 69, Fordsville, KY 42343

Group Artec, 340 E. 11th Avenue, Jasper, Indiana 47546

Kimball Upholstered Products, 340 E. 11th Avenue, Jasper, Indiana 47546

Kimball Furniture Reproductions, Inc., 1919 Bell Street P.O. Box 4248, Montgomery, Alabama 36104

The Jasper Corporation, 2704 Newton Street P.O. Box 360, Jasper, Indiana 47546

The Jasper Corporation, Cabinet Division, 1180 E. 16th Street P.O. Box 360, Jasper, Indiana 47546
Jasper Stylemasters, 1037 E. 15th Street P.O. Box 520, Jasper, Indiana 47546
Jasper Stylemasters, Speaker Cabinet Division (Vinyl), 955 S. Habig Street, Jasper, Indiana 47546
Jasper Stylemasters, Plastic Division, 1620 Cherry Street, Jasper, Indiana 47546
Jasper Stylemasters, ToolPro, 1620 Cherry Street, Jasper, Indiana 47546
Kimball International, Inc., Machine & Equipment Division, Old Boonville Hwy, 62 R.R. 2 Box 610, Chandler, Indiana 47610.

Foreign Divisions

Kimco, S.A., Carretera Matamoros km 9 P.O. Box 386, Reynosa, Tamaulipas, Mexico
Kimball Keyboards de Mexico, Carretera Matamoros km 9 P.O. Box 386, Reynosa, Tamaulipas, Mexico
L. Bosendorfer Klavierfabrik A.G., Musikveriensqebaude Canovagasse 4, 1010 Vienna, Austria
L. Bosendorfer G.m.b.H., Gymelsdorfergasse 42, 2700 Wiener Neustadt, Austria
Herrburger Brooks, Ltd., Meadow Lane, Long Eaton, Nottingham, NG10 2FG England

1. Parent corporation and address of principal office: The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Bell Pharmacal Corporation, Frontage Road, Greensville, SC 29602.

(b) Egg City of Arkansas, Inc., Rocky Mound Road, Hope, AR 71801.

(c) Egg City of Illinois, Inc., State Route 37, Farina, IL 62838.

(d) Farmers Market Warehouse Store, Inc., 8th and Jefferson Street, Nashville, TN 37208.

(e) Julius Goldman's Egg City, 8643 Shekell Road, Moorpark, CA 93021.

(f) Pace Dairy Foods Company, 2700 Valley High Drive, N.W., Rochester, MN 55901.

(g) Peyles of Tennessee, Inc., 1500 Sanita Avenue, Louisville, KY 40213.

(h) Peyton's Inc., 1500 Sanita Avenue, Louisville, KY 40213.

(i) Peyton's Southeastern, Inc., Refreshment Lane, Appalachian Industrial Park, Cleveland, TN 37311.

(j) SupeRx, Inc., 175 Tri County Parkway, Cincinnati, OH 45246.

(k) Vandervoort Dairy Foods Company, 900 South Main Street, Ft. Worth, TX 76104.

1. Parent corporation: L & W Farm Equipment, Route 4, Box 404A, Tallassee, Alabama 36078.

2. Wholly-owned subsidiary: Courtesy International, Route 2, Box 293B, Tuskegee, Alabama 36083.

1. Parent Corporation: Land O'Lakes, Inc., 614 McKinley Place, Minneapolis, MN 55413.

2. Wholly owned subsidiaries which will participate in the operation:

a. Research Seeds, Inc., 310 South Third Street, St. Joseph, MO 64501.

b. Northwest Dairy Products Company, 614 McKinley Place, Minneapolis, MN 55413.

c. Land O'Lakes Dairy Company, 614 McKinley Place, Minneapolis, MN 55413.

d. Spencer Foods, P.O. Box 1228, Spencer, IA 51301.

e. Scott Farm Seed Co., Mechanicsburg, OH 43044.

1. Parent corporation and address of principal office: Louisville Cement Company, 501 South Second Street, Louisville, KY 40202.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) C. T. Hertzsch, Inc., 501 South Second Street, Louisville, KY 40202.

(b) Speed Industries, Inc., 501 South Second Street, Louisville, KY 40202.

(c) Bessemer Cement Company, 3736 Boardman—Canfield Road, Canfield, OH 44406.

1. Parent corporation and address of principal office: Owens-Illinois, Inc., P.O. Box 1035, Toledo, Ohio 43666.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) L. E. Smith Glass Co., P.O. Box 149, Mt. Pleasant, Pennsylvania 15666.

(b) Owens-Illinois Development Corporation, P.O. Box 1035, Toledo, Ohio 43666.

(c) Forest Products Corporation, Post Office Box 10, Newberry, South Carolina 29108.

1. Parent corporation and address of principal office: Pay'n Save Corporation, 1511 Sixth Avenue, Seattle, Washington 98101.

2. Wholly-owned subsidiaries which will participate in the operation, and address of their respective principal office:

(a) Lamonts Apparel Inc., 1511 6th Avenue, Seattle, Washington 98101.

(b) Bi-Mart Company, 145 North Cleveland St. Eugene, Oregon 97402.

3. Trade names that are operated as a part of the Pay'n Save Corporation:

(a) Pay'n Save, Seattle/Alaska Division, 1511 6th Avenue, Seattle, Washington 98101.

(b) Pay'n Save, Northwest Division, 1511 6th Avenue, Seattle, Washington 98101.

(c) Pay'n Save, California/Hawaii Division, 7700 Edgewater Dr, Suite 665, Oakland, California 94621.

(d) Von Tobel's, 2655 S. Maryland Parkway, Las Vegas, Nevada 89109.

(e) Ernst Home Center Division, 1511 6th Avenue, Seattle, Washington 98101. District Office: 1198 Brickyard Road, Salt Lake City, Utah 84106.

(f) Sportswest Division, 1511 6th Avenue, Seattle, Washington 98101.

(g) Yard Bird Division, 2100 N. National Avenue Chehalis, Washington 98532.

1. Parent corporation and address of principal office: PepsiCo, Inc., Purchase, NY 10577.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Beverages, Foods & Service Industries, Inc., c/o PepsiCo, Purchase, NY 10577.

(2) Conroe Packaging, Inc., 222 Loop 336 East, P.O. Box Y, Conroe, TX 77301.

(3) Frito-Lay, Inc., P.O. Box 35034, Dallas, TX 75235.

(4) National Beverages, Inc., 1700 Directors Row, Orlando, FL 32809.

(5) PBG Beverage Distributors, Inc., c/o PepsiCo, Purchase, NY 10577.

(6) Pepsi-Cola Bottling Co. of Los Angeles, Inc., P.O. Box 3338, Torrance, CA 90510.

(7) Pepsi-Cola Bottling Company of Puerto Rico, Inc., P.O. Box 1709, Hato Rey, Puerto Rico 00919.

(8) Pepsi-Cola Interamericana, S.A., c/o PepsiCo, Purchase, NY 10577.

(9) Pepsi-Cola Metropolitan Bottling Company, Inc., c/o PepsiCo, Purchase, NY 10577.

(10) Pepsi-Cola Panamericana, S.A., c/o PepsiCo, Purchase, NY 10577.

(11) PepsiCo World Trading Company, Inc., c/o PepsiCo, Purchase, NY 10577.

(12) Advance Moving & Storage, Inc., 650 North Second Ave., Phoenix, AZ 85003.

(13) Agency Media Services, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(14) Fleet Insurance Management, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(15) Great Falls North American, Inc., P.O. Box 1414, Great Falls, MT 59401.

(16) Lee Way Motor Freight, Inc., P.O. Box 12750, Oklahoma City, OK 73157.

(17) Marlew of El Paso, Inc., 8201 Lockheed Drive, El Paso, TX 79225.

(18) Moving Credit, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(19) NACAL, Inc., 12842 Valley View, Garden Grove, CA 92645.

(20) North American Distribution Systems, Inc., P.O. Box 411, New Haven, IN 46774.

(21) North American Forwarding, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(22) North American Moving & Storage, Inc., 2122 Bremer Road, Fort Wayne, IN 46803.

(23) North American Properties, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(24) North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801.

(25) North American Van Lines of Texas, Inc., 811 Central Expressway, Richardson, TX 75080.

(26) Tractor Power, Inc., d.b.a., Fleet Service, c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(27) Transportation Collections, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801.

(28) Triangle Fleet Service, Inc., 801 W. California Road, Fort Wayne, IN 46808.

(29) PepsiCo Building Systems, Inc., 3031 LaJolla St., Anaheim, CA 92806.

(30) Pizza Hut, Inc., P.O. Box 428, Wichita, KS 67201.

(31) Aurora Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(32) Bender Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(33) Buckeye PH, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(34) Blues Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(35) Chesapeake Bay Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(36) Denver Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(37) East Moline Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(38) Fiesta Cantina of Ohio, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(39) Franchise Services, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(40) Franchise Services of Kansas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(41) Indianapolis Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(42) J & G Products, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(43) Lake Michigan Management Co., Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(44) Long's Appleton, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(45) Long's Green Bay #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(46) Long's Marshfield, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(47) Long's Neenah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(48) Long's Wausau #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(49) Mountaineer Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(50) Oriole Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(51) Pizza Hut, Inc. of LaCrosse, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(52) Pizza Hut of America, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(53) Pizza Hut of Boston, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(54) Pizza Hut of Columbia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(55) Pizza Hut of Gainesville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(56) Pizza Hut of Georgia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(57) Pizza Hut of Jeffersonville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(58) Pizza Hut of Kalamazoo, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(59) Pizza Hut of Knoxville Corporation, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(60) Pizza Huts of Las Vegas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(61) Pizza Hut of Louisiana, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(62) Pizza Hut of Louisville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(63) Pizza Hut of Massachusetts, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(64) Pizza Huts of North Carolina, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(65) Pizza Hut of North Haven, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(66) Pizza Hut of Oklahoma, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(67) Pizza Hut of Oregon, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(68) Pizza Hut of Racine, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(69) Pizza Hut of Rochester, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(70) Pizza Hut of San Diego, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(71) Pizza Hut of Santa Fe, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(72) Pizza Hut of Spokane, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(73) Pizza Hut of Utah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(74) Pizza Hut of Virginia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(75) Pizza Hut of West Allis, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(76) Pizza Hut of Wichita, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(77) Pizza Hut of Wisconsin, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(78) Pizza Hut of Zion, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(79) Ross Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(80) Second Concept, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(81) Sioux Falls Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(82) Sun Devil Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(83) Taco Kod of Wichita #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201.

(84) Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714.

(85) Bell Food Services, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714.

(86) Taco Bell of Ohio, Inc., c/o Taco Bell, 17381 Red Hill Ave., Irvine, CA 92714.

(87) Grandma's Foods, Inc., 6620 S.W. 112th Ave., Beaverton, OR 95007.

(88) Southwest Snack Equipment, Inc., 900 North Loop 12, Irving, TX 75061.

1. Parent corporation and address of principal office: Percy Kent Bag Co., Inc., 5910 Winner Road, Kansas City, MO 64125.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Support Systems, Inc., 5910 Winner Road, Kansas City, MO 64125.

1. Parent corporation: Rich Terminal Company, 620 South Front Street, Ironton, Ohio 45638.

2. Wholly-owned subsidiaries:

Rich of Ohio, Inc., 620 South Front Street, Ironton, Ohio 45638.

Tanner Oil Co., 620 South Front Street, Ironton, Ohio 45638.

Tanco, Inc., 620 South Front Street, Ironton, Ohio 45638.

Rich Oil Corporation, 620 South Front Street, Ironton, Ohio 45638.

Rich of West Virginia, Inc., 620 South Front Street, Ironton, Ohio 45638.

1. Parent corporation and address of principal office: The Richardson Company, 2400 East Devon Avenue, Des Plaines, Illinois 60018.

2. Wholly-owned subsidiaries which will participate in the operations, and the address of their respective principal offices:

(a) Richardson Chemical Company, 2400 East Devon Avenue, Des Plaines, Illinois 60018;

(b) Chemprene, Inc., 570 Fishkill Avenue, Beacon, New York 12508;

(c) Richardson Graphics Company, 9797 West 151st Street, Orland Park, Illinois 60462;

(d) Concal Company, 2400 East Devon Avenue, Des Plaines, Illinois 60018;

(e) Richardson Export Company, 2400 East Devon Avenue, Des Plaines, Illinois 60018;

(f) The Richardson Company (Ohio), 2400 East Devon Avenue, Des Plaines, Illinois 60018;

(g) The Richardson International Sales Corporation, 2400 East Devon Avenue, Des Plaines, Illinois 60018; and

(h) Richardson Graphics Canada Limited, 88 Doncaster Avenue, Thornhill, Ontario, Canada L3T IL3.

1. Parent company: A. O. Smith Corporation, 3533 North 27th Street, P.O. Box 584, Milwaukee, Wisconsin 53201, Corporate Office.

2. Wholly-owned subsidiaries which will participate in the operations: A. O. Smith Harvestore Products, Inc., 550 W. Algonquin Rd., P.O. Box 395, Arlington Heights, Illinois 60005.

1. Parent corporation and address of principal office: Standard Brands Incorporated, 625 Madison Avenue, New York, N.Y. 10022.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Julius Wile Sone & Co., Inc., 1 Hollow Lane, New Hyde Park, N.Y. 11042.

(b) All Brand Importers, Inc., 1 Hollow Lane, New Hyde Park, N.,Y. 11042.

(c) National Peanut Corporation, 625 Madison Avenue, New York, N.Y. 10022.

(d) De Leon Peanut Company, P.O. Box 747, Durant, OK. 74701.

1. Parent corporation and address of principal office: West Point—Pepperell, Inc., 400 West Tenth Street, West Point, Georgia 31833.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Virginia Crafts, Inc., Keysville, Virginia 23947.

1. Parent corporation: Witco Chemical Corporations, 277 Park Avenue, New York N.Y. 10017.

2. Wholly-owned subsidiaries which will participate in the operations:

Pearsall Chemical Corporation, 2519 Fairway Park Drive, Houston, TX 77001.

Southwest Petro-Chem, Inc., 1400 S Harrison, Olathe, KS 66061.

Argus Chemical Corporation, 633 Court Street, Brooklyn, N.Y. 11231.

1. Parent corporation and address of principal office: F. W. Woolworth Co., 233 Broadway, New York, New York 10279.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Kinney Shoe Corporation, 233 Broadway, New York, New York 10279.

(b) The Richman Brothers Company, 1600 E. 55th Street, Cleveland, Ohio 44103.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33157 Filed 10-23-80; 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–Further 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 November 20, 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), 49 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. Originally, the KCT report on RI operations would have been due on September 19, 1980. By order served September 16, 1980, the Commission extended the filing date to October 20, 1980 (45 FR 62,513, Sept. 19, 1980). Because of the complexities involved in establishing a cut-off date for filing claims against KCT by other railroads and because issues regarding the settlement of claims between KCT and the RI Trustee have not yet been resolved, we are further extending the time for filing the KCT accounting report until November 20, 1980.

Two continuing matters make impractical the filing of an accounting report and the completion of accounting and other necessary wind-down functions by October 20. We have continued to work to establish reasonable cut-off dates for accounting settlements of claims other railroads may have against KCT as directed operator of RI. In reviewing railroad accounting rules and practices, we have not yet been able to establish a cut-off date that would be fair to all involved railroads.

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 this additional 30-day extension of the wind-down period and the time for filing the directed service accounting report will be adequate to resolve these issues. Therefore, we will extend the wind-down period and filing date until November 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 November 20, 1980.

3. This decision will be effective on Oct. 20, 1980.

This action is taken under the authority of 49 U.S.C. § 10321 and 11125.

Decided: October 17, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam absent and not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33159 Filed 10-23-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-2 (Sub-No. 25)]

Louisville and Nashville Railroad Co. et al.; Notice of Findings

In the matter of Docket No. AB-2 (Sub-No. 25), Louisville and Nashville Railroad Company—Abandonment—Between Medaryville and Michigan City, In Pulaski, Starke, and LaPorte Counties, IN; and Finance Docket No. 28905 (Sub-No. 8) Chicago South Shore and South Bend Railroad—Acquisition and Operation Louisville and Nashville Railroad Company Line, Michigan City Branch, in LaPort County, IN; and Docket No. AB-19 (Sub-No. 41), Baltimore and Ohio Railroad Company— Abandonment—from at or near North Vernon, IN, to at or near Nabb, IN, in Jennings, Jefferson, and Scott Counties, IN; and Finance Docket No. 28905 (Sub-No. 11), Louisville and Nashville Railroad Company trackage rights over Baltimore and Ohio Railroad Company in Cincinnati, OH; Baltimore and Ohio Railroad Company joint use properties of the Covington and Cincinnati Elevated Railroad and Transfer and Bridge Company and the Cincinnati Inter-Terminal Railroad Company; Baltimore and Ohio Railroad Company trackage rights over Louisville and Nashville Railroad Company between KC juntion at Covington, KY, and Louisville, KY; Baltimore and Ohio Railroad Company and Louisville and Nashville Railroad Company coordination of operations between Cincinnati, OH, and Louisville, KY; and Docket No. AB-18 (Sub-No. 27), Chesapeake and Ohio Railway Company—abandonment—(A) carfloat operations between Newport News, VA, and the Naval Operating Base in Norfolk, VA, (B) connection with the Norfolk and Portsmouth Belt Line Railroad Company at Sewells Point in Norfolk, VA; and Finance Docket No. 28905 (Sub-No. 12), Cheaspeake and Ohio Railway Company trackage rights over Seaboard Coast Line Railroad Company between Richmond, VA, and Portsmouth, VA; Chesapeake and Ohio Railway Company and Seaboard Coast Line Railroad Company coordination of operations between Richmond, VA, and Portsmouth, VA; and Docket No. AB-18 (Sub-No. 28), Chesapeake and Ohio Railway Company—Abandonment—from at or near Winchester, KY, to at or near Chilesburg, KY, in Clark and Fayette Counties, KY; and Finance Docket No. 28905 (Sub-No. 13) Chesapeake and Ohio Railway Company trackage rights over Louisville and Nashville Railroad Company between Winchester and North Lexington, KY; and Docket No. AB-18 (Sub. No. 29), Chesapeake and Ohio Railway Company—Abandonment—line known as Louisville Viaduct and operations at Preston Street Yard, all in Louisville, Jeffersons County, KY; and Finance Docket No. 28905 (Sub-No. 14), Chesapeake and Ohio Railway Company Trackage rights over Louisville and Nashville Railroad Company between MN junction at or near East Louisville, KY, and points in Louisville; Chesapeake and Ohio Railway Company coordination of operations between Lexington, KY, and Lousiville, KY, notice of findings.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by decision decided September 23, 1980, a finding which is administratively final was made by the entire Commission, stating that the public convenience and necessity permit the abandonments by (1) Louisville and Nashville Railroad Company in docket No. AB-2 (Sub-No. 25) of its line of railroad between milepost QB 15.16 near Medaryville, IN, and milepost QB 60.03 near Michigan City, IN, in Pulaski, Starke, and LaPorte Counties, IN, a distance of 44.87 miles, which application is related to Finance Docket No. 28905 (Sub-No. 8), *Chicago South Shore and South Bend Railroad Acquisition and Operation Louisville and Nashville Railroad Company line, Michigan City Branch, in LaPorte County, IN;* (2) Baltimore and Ohio Railroad Company in Docket No. AB-19 (Sub-No. 41) of its line of railroad between milepost 0.35 near North Vernon, IN, and milepost 28.52 near Nabb, IN, in Jennings, Jefferson, and Scott Counties, IN, a distance of 28.17 miles, which application is related to Finance Docket No. 28905 (Sub-No. 11), *Louisville and Nashville Railroad Company Trackage Rights over Baltimore and Ohio Railroad Company in Cincinnati, OH: Baltimore and Ohio Railroad Company Joint Use Properties of the Covington and Cincinnati Elevated Railroad and Transfer and Bridge Company and the Cincinnati Inter-Terminal Railroad Company; Baltimore and Ohio Railroad Company Trackage Rights Over Louisville and Nashville Railroad Company Between KC Junction at Covington, KY, and Louisville, KY: Baltimore and Ohio Railroad Company and Louisville and Nashville Railroad Company Coordination of Operations Between Cincinnati, OH, and Louisville, KY;* and (3) Chesapeake and Ohio Railway Company in (a) docket AB-18 (Sub-No. 27) of its carfloat operations (i) between Newport News, VA, and the U.S. Naval Operating Base at Norfolk, VA, a distance of approximately 6 miles, and (ii) between Newport News, VA, and Sewells Point in Norfolk, VA, a distance of approximately 7 miles, which application is related to Finance Docket No. 28905 (Sub-No. 12), *Chesapeake and Ohio Railway Company Trackage Rights over Seaboard Coast Line Railroad Company Between Richmond, VA, and Portsmouth, Va; Chesapeake and Ohio Railway Company and Seaboard Coast Line Railroad Company Coordination of Operations Between Richmond, VA, and Portsmouth, VA;* (b) docket No. AB-18 (Sub-No. 28) of its line of railroad between milepost 625.38 near Winchester, KY, and milepost 634.49 near Chilesburg, KY, in Clark and Fayette Counties, KY, a distance of 9.11 miles, which application is related to Finance Docket No. 28905 (Sub-No. 13), *Chesapeake and Ohio Railway Company Trackage Rights over Louisville and Nashville Railroad Company Between Winchester and North Lexingtion, KY; and (c) docket No. AB-18 (Sub-No. 29) of its line of railroad between valuation station 4+20 to valuation station 32+22.2 in Louisville, Jefferson County, KY, a distance of 0.53 miles, which application is relatd to Finance Docket No. 28905 (Sub-No. 14), Chesapeake and Ohio Railway Company Trackage Rights over Louisville Viaduct and Operations at Preston Street Yard, all in Louisville, Jefferson County, KY,* subject to the conditions for the protection of emplyees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), *provided further,* that in docket Nos. AB-2 (Sub-No. 25) and AB-19 (Sub-No. 41), the applicants shall not sell, lease, exchange or otherwise dispose of the right-of-way underlying the track, all bridges, and all culverts on the lines involved for a period of 120 days from October 25, 1980, unless these properties have first been offered, upon reasonable terms, to public authorities or other responsible persons interested in acquiring the property for public use. In addition, upon approval of the abandonment in No. AB-2 (Sub-No. 25) and institution of salvage operations

along the involved line, L&N will be required to (1) cut bridge structures off at stream bed level to prevent disruption of bottom sediments and aquatic life; (2) remove abutments only if excessive stream siltation can be prevented; and (3) remove bridges during the low-flow period of the year.

All of the above applications are directly related to the application in Finance Docket No. 28905 (Sub-No. 1), *CSX Corporation Control Chessie System, Inc., and Seaboard Coast Line Industries, Inc.*

Certificates of abandonment will be issued to the Louisville and Nashville Railroad Company, the Baltimore and Ohio Railroad Company, and the Chesapeake and Ohio Railway Company based on the above-described findings 30 days after publication of this Notice, unless within 15 days from the date of publication the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with Commission and served concurrently on the applicants, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after this notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the finacial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33158 Filed 10-23-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an applicator 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.gs., 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 within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-075

Decided: Oct. 21, 1980.

By the Commission, Review Board Number 3 Members Parker, Fortier and Hill. Member Hill not participating.

MC 71452 (Sub-21F), filed October 8, 1980. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris St., Indianapolis, IN 46241. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 71902 (Sub-99F), filed October 9, 1980. Applicant: UNITED TRANSPORTS, INC., 4900 North Santa Fe Ave., Oklahoma City, OK 73154. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and senitive weapons and munitions), for the United States Government, between points in the U.S.

MC 112063 (Sub-24F), filed October 7, 1980. Applicant: P.I. & I. MOTOR EXPRESS, INC., c/o P.O. Box 685, Sharon, PA 16146. Representative: Milan Tatalovich, 11 West Liberty St., Girard, OH 44420. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 123993 (Sub-83F), filed October 10, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* between Santa Rosa, Tucumcari, Logan, Maravisa, and Endee, NM; Stratford, Glenrio, Adrian, Vega, Wildorado, Amarillo, Alanreed, McLean, Shamrock, St. Francis, Fritch, Sunray, Etter, Brum, Wilco, Stinnett, Pringle, Morse, Gruver, Dalhart, Irving, Dallas, Waxahachie, Corsicana, Teague, Newby, Normangee, Tomball, Houston, Texas City, Galveston, Fort Worth, Graham, Jacksboro, Bowie, Ringgold, and Mexia, TX; Texalo, Sayre, Elk City, Clinton, Weatherford, Bridgeport, Texhoma, Hitchland, Hardesty, Guymon, Mangum, Grantie, Hobart, Carnegie, Anadarko, Apache, Chickasha, Marlow, Duncan, Comanche, Homestead, Alva, Ingersoll, Enid, Billings, Ponca City, Augusta, Kingfisher, El Reno, Oklahoma City, Shawnee, Seminole, Wewoka, Holdenville, McAlester, Haileyville, Hartshorne, Wilburton, Wisten, Howe, Medford, Warren, Geary, Okeene, Fort Bill, Verden, Lawton, Walter, Temple, Waurika, and Terral, OK; Eunice, Lecompte, Alexandria, Winnfield, Jonesboro, Hodge, Ruston, Dubach, Bernice and Junction City, LA; Eldorado, Camden, Crossett, Hermitage, Mace, Banks, Kingman, Fordyce, Carthage, Sparkman, Malvern, Hot Springs, Haskell, Benton, Little Rock, Bauxite, North Little Rock, Carlisle, Hazen, Des Arc, Mesa, DeValls Bluff, Brinkley, Wheatley, Forest City, West Memphis, Edmondson, Stuttgart, Roland, Bigelow, Perry, Cla, Booneville, Mansfield, and Hartford, AR; Kansas City, Southlea, Pleasant Hill, Windsor, Hay, Versaille, Eldon, Meta, Gasconde, Belle, Owensville, Union, Labadie, St. Louis, Liberty, Excelsior Springs, Polo, St. Joseph, Clardsdale, Maysville, Wetherby, Altamont, Coburn, Trenton, and Princeton, MO; Caldwell, Wellington, Wichita, Peabody, Marion, Harrington, Liberal, Plains, Meade, Fowler, Mineola, Bucklin, Dodge City, Greensburg, Pratt, Hutchinson, Medora, McPherson, Salina, White City, Alta Vista, Goodland, Colby, Norton, Phillipsburg, Smith Center, Mankato, Belleville, Cuba, Clyde, Clifton, Clay Center, Riley, Manhattan, McFarland, Topeka, Holton, Horton, Troy, Atchison and Kansas City, KS; Burlington, Stratton, Flaglea, Arriba, Limon, Simla, Roman, Calhan, Colorado Springs and Denver, CO; Thompson, Ruskin, Deshler, Hebron, Fairbury, Jansen, Witt, Lincoln, South Bend, Omaha, and Beatrice, NE; Council Bluffs, Shelby, Oakland, Avoca, Audubon, Walnut, Menlo, Stuart, Winterset, Indianola, Chariton, Corydon, Allerton, Seymore, Centerville, Eldon, Ottumwa, Evans, Pella, Monroe, Des Moines, Colfax, Newton, Grimmell, Brooklyn, Marengo, Iowa City, West Liberty, Stockton, Davenport, Clinton, Fairfield, Keosauqua, South Burlington, Buffalo Center, Burlington, Mount Zion, Keokuk, Washington, Ainsworth, Columbus Jct., Nichols, Muscatine, Wilton, Elmira, Cedar Rapids, West Union, Oelwein, Vinton, Waterloo, Cedar Falls, Nevada, McCallsburg, Renwick, Iowa Falls, Hampton, Mason City, Maysfield, Manly, Dows, Belmond, Titonka, Armstrong, Northwood, Emmetsburg, Estherville, Spirit Lake, Lake Partk, Gowrie, Hanson, Pocohontas, Hartley, and Sibley, IA; Elsworth, Worthington, Lismore, Albert Lea, Hollandale, Clarks Grove, Owatona, Faribault, Northfield, Farmington, West St. Paul, and St. Paul, MN; Rock Island, Milan, Moline, East Moline, Silvis, Colona, Geneseo, Sheffield, Bureau, Tonlon, Henry, Chillicothe, Peoria, Pekin, Lasalle, Ottawa, Joliet, Elwood, and Chicago, IL; and Memphis, TN; on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 135953 (Sub-18F), filed October 3, 1980. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Marshall D. Becker, Suite 610, 7171 Merce Rd., Omaha, NE 68106. Transporting *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151453 (Sub-1F), filed October 3, 1980. Applicant: HERMAN O. ALBRITTON TRUCKING, Rt. 2, Box 219, Butler, GA 31006. Representative: Herman O. Albritton (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package (exceeds 100 pounds, between points in the U.S.

MC 152152F, filed October 8, 1980. Applicant: THOMAS J. WEBER, 12122 W. St., Omaha, NE 68137. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *food and other edible products* (including edible by-products but excluding alcoholic beverages and drugs) *intended for human consumption, agricultural limestone and other soil conditioners and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP3–053

Decided: Oct. 20, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Joyce not participating.

MC 53965 (Sub-180F), filed October 6, 1980. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS 67401. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ford, Levant, Brewster, Edson, Caruso, Ruleton and Kanorado, KS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 95084 (Sub-167F), filed October 6, 1980. Applicant: HOVE TRUCK LINE, a Corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in U.S.

MC 152114F, filed October 6, 1980. Applicant: WILLIAM E. PACE & MAX PACE, 4816 Wedgview, Hurst, TX 76053. Representative: William E. Pace & Max Pace (same address as applicant). Transporting *food and other edible products (including edible by-products but excluding alcoholic beverages and drugs), intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S. (except AK, HI, and DC).

Volume No. OP4–096

Decided: Oct. 17, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Chandler not participating.

MC 125037 (Sub-17F), filed October 14, 1980. Applicant: DIXIE MIDWEST EXPRESS, INC., P.O. Box 372, Greensboro, AL 36744. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. Transporting *general commodities* (except used household goods,

hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 152186F, filed October 10, 1980. Applicant: RICHARD GALUSHA, RFD, South Johnsburg Rd., Johnsburg, NY 12843. Representative: W. Norman Charles, P.O. Box 724, Glen Falls, NY 12801. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 152187F, filed October 10, 1980. Applicant: GORDON TRUCKING, INC., 2205 Pacific Hwy East, Tacoma, WA 98422. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. 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.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33156 Filed 10-23-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission by November 24, 1980. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to cooperate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 361

Decided: October 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 31389 (Sub-302F), filed June 2, 1980. Applicant: MCLEAN TRUCKING

COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Little Rock, AR and Springfield, MO, over U.S. Hwy 65 intermediate points between Little Rock and Conway, AR, serving Bear Creek Springs, AR for purposes of joinder only; and serving Springfield, MO as an intermediate point in conjunction with existing regular route operations: (2) between Springfield, MO and Gateway, AR: from Springfield over U.S. Hwy 60 to Monett, MO, then over MO Hwy 37 to the MO/AR state line, then over AR Hwy 37 to Gateway, and return over the same route, serving no intermediate points, (3) between Bear Creek Springs, AR and Tulsa, OK, from Bear Creek Springs over U.S. Hwy 62 to junction Muskogee Tpk., then over the Muskogee Tpk. to Tulsa, and return over the same route, serving all intermediate points between Rogers and Fayetteville, AR inclusive, the off-route point of Bentonville, AR, and the intermediate point Muskogee, OK: (4) between Muskogee, OK and Little Rock, AR, from Muskogg over U.S. Hwy 64 (also from Muskogee over the Muskogee Tpk. to the junction of U.S. Hwy 64) to Little Rock, and return over the same route, serving all intermediate points between Ft. Smith, and Little Rock, AR inclusive: (5) between Fayetteville, AR and Texarkana, TX, over U.S. Hwy 71 serving Ft. Smith, AR as an intermediate point, and the junction of U.S. Hwys 71 and 270 and U.S. Hwys 59 and 71 for purposes of joinder only: (6) between Wynne, AR and Forest City, AR, over AR Hwy 1 serving Colt, AR, and intermediate points: (7) between Memphis, TN and Little Rock, AR, from Memphis over U.S. Hwy 64 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Little Rock, and return over the same route, serving Wynne, Augusta and Searcy, AR as intermediate and off-route points: and (8) between Blytheville, AR and junction Interstate Hwys 55 and 57 near Sikeston, MO, from Blytheville over U.S. Hwy 61 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 57, and return over the same route, serving Caruthersville, Kennett and Hayti, MO as intermediate and off-route points.

MC 106398 (Sub-1079F), filed June 13, 1980, previously noticed in **Federal Register** issue of July 31, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *pipe, conduit, and accessories* from Louisiana, MO, to points in the U.S. (except AK and HI).

Note.—This republication changes the origin.

MC 111309 (Sub-16F), filed May 19, 1980, previously noticed in **Federal Register** issue of July 29, 1980. Applicant: NEWPORT TRUCKING CORP., 4600 Fifth St., Long Island City, NY 11101. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier*, transporting (1) *flavoring compounds, extracts and beverage preparations*, from the facilities of Pepsi-Cola Company at Valhalla, NY to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, SC, VA, VT, NC, MI, OH, and WV, and (2) *empty containers packaging materials, and materials, supplies and equipment* used in the manufacture of flavoring syrup, flavoring compounds, extracts and beverage preparations, from points in CT, DE, MA, MD, ME, NH, NC, NJ, NY, PA, RI, SC, VA, CT, MI, OH, and WV to the facilities of Pepsi-Cola Company at Valhalla, NY, under continuing contract(s) with Pepsi-Cola Company of Purchase, NY.

Note.—This republication add MI and OH to the territory description in (1) and (2).

MC 150358F, filed March 12, 1980. Applicant: RICHARD R. KROHN d.b.a. NORTHWEST DELIVERY SERVICE, 7600 49th Ave. N., New Hope, MN 55428. Representative: David F. Jendrzejek, 2022 IDS Center, Minneapolis, MN 55402. Transporting *such commodities* as are distributed by manufacturers of containers, between Minneapolis, MN, on the one hand, and, on the other, points in WI, MI, and IA.

Volume No. 362

Decided: Oct. 17, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 106398 (Sub-970F), filed October 1, 1979, previously noticed in **Federal Register** of March 6, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal (same address as applicant). Transporting, (1) *buildings and insulating materials, pipe, and pipe fittings*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to shipments originating at or destined to the facilities of CertainTeed Corporation.

Note.—This republication changes the territory description.

MC 119399 (Sub-132F), filed June 2, 1980, previously noticed in **Federal Register** issue of July 29, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). Transporting (1) *containers and bags*, and (2) *agricultural pesticides and ingredients* of agricultural pesticides, from Crossett, AR, and Atlas Point, DE, Indianapolis, IN, and Paoli, PA, to the facilities of Farmland Industries, Inc., at St. Joseph, MO.

Note.—This republication adds Crossett, AR to the Territory Description.

MC 146448 (Sub-17F), filed April 10, 1980, initially published in the **Federal Register** on July 29, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *tile*, and *materials, equipment and supplies* used in the installation, manufacture, and sale of tile (except commodities in bulk), between the facilities of American Olean Tile Co., at (a) Roseville, CA, (b) Cloverport and Lewisburg, KY, (c) Olean, NY, (d) Lansdale and Quakertown, PA, and (e) Jackson, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application is republished to show the origin point of Lewisburg, KY, in lieu of Leesburg.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33161 Filed 10-23-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority. Findings:

With the exception of those applications involving duly noted problems (e.gs., 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 by December 8, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3–052

Decided: Oct. 20, 1980.

By the Commission, Review Board Number 1; members Carleton, Joyce, and Jones. Member Joyce not participating.

MC 2934 (Sub-82F), filed October 8, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting *electric appliances*, from Allentown, PA, and Brockport, NY, to points in AL, AR, CA, FL, GA, IL, IA, IN, KS, KY, LA, MD, MI, MN, MO, MS, NC, OH, OK, SC, TN, TX, VA, WI, and WV.

MC 104654 (Sub-165F), filed October 8, 1980. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave & 13th St., NW, Washington, DC 20004. Transporting (1) *petroleum products*, from St. Louis, MO, to points in IL; and (2) *lubricating oil*, from St. Louis, MO, to Atlanta, GA, Indianapolis, IN, Riverdale, IA, Jackson, KY, Memphis, and Alcoa, TN, Aberdeen, MS, Milwauke, WI, Kansas City, KS, Omaha, NE, Little Rock, AR, and Baton Rouge, LA.

MC 107295 (Sub-997F), filed October 8, 1980. Applicant: PRE-FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duance Zehr (same address as applicant). Transporting (1) *composition board* and *water repelling material* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., restricted to traffic originating at or destined to the facilities used by Shepherd Products Co.

MC 124905 (Sub-6F), filed October 8, 1980. Applicant: GARY W. GRAY, P.O. Box 48, Delaware, NJ 07823. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *scrap metal*, between points in CT, NY, NJ, PA, DE, and MD.

MC 129525 (Sub-3F), filed October 8, 1980. Applicant: STARR TRANSIT CO., INC., 2531 E. State St., Trenton, NJ 08619. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107. Over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, (1) between Levittown, PA and Atlantic City, NJ: From Levittown over Oxford Valley Road to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction PA Hwy 132, then over PA Hwy 132 to Bensalem, PA, then over PA Hwy 132 to junction Interstate Hwy 95, then over Interstate Hwy 95 to the Walt Whitman Bridge, then over said bridge to the Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and return over the same route, and (2) between Richboro, PA and Bensalem, PA: From Richboro over PA Hwy 232 to junction PA Hwy 132, then over PA Hwy 132 to Bensalem, and return over the same route, in (1) and (2) above serving all intermediate points.

MC 133805 (Sub-60F), filed October 8, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112. Transporting (1) *toilet preparations*, and (2) *materials and supplies* used in the manufacture and distribution of toilet preparations, in vehicles equipped with refrigeration (except commodities in bulk, in tank vehicles), between the facilities of Roux Laboratories, Inc., in Duvall County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 136364 (Sub-2F), filed October 6, 1980. Applicant: J & P PROPERTIES, INC., P.O. Box 1146, Apopka, FL 32703. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under a continuing contract(s) with F. W. Woolworth Co., of New York, NY.

MC 14565 (Sub-8F), filed October 6, 1980. Applicant: GURN ENTERPRISES, INC., Route 6, Box 8, Allegan, MI 49010. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21740. Transporting (1) *universal joints*, and (2) *materials and supplies* used in the manufacture and distribution of universal joints (except commodities in bulk), between points in the U.S., under continuing contracts(s) with Rockwell International Corporation, of Troy, MI.

MC 145955 (Sub-19F), filed October 8, 1980. Applicant: CENTRAL TRUCK SERVICE, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, 7101 Mercy Rd., Suite 106, Omaha, NE 68106. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetics, toilet preparations, and jewelry (except commodities in bulk, in tank vehicles), between Chicago, IL, and Kansas City, MO.

MC 147404 (Sub-3F), filed October 8, 1980. Applicant: DONALD J. GETTELFINGER d.b.a. GETTELFINGER FARMS, R.R. 2, Box 241, Palmyra, IN 47164. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 North Meridian Street, Indianapolis, IN 46204. Transporting *bananas*, between points in Jefferson County, KY, on the one hand, and, on the other, Mobile, AL, Tampa, FL, New Orleans, LA, and Gulfport, MS.

MC 147645 (Sub-3F), filed October 8, 1980. Applicant: DOTY TRUCKING, INC., R.R. #2, Box 310, Columbus, IN 47201. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204.Transporting (1) *petroleum or coal products* as described in Item 29 of the Standard Transportation Commodity Code (STCC), (2) *rubber or miscellaneous plastics products* as described in Item 30 of STCC, (3) *primary metal products* including

galvanized, except coating or other allied processing, as described in Item 33 of STCC, (4) *fabricated metal products* except ordinance, as described in Item 34 of STCC, and (5) *machinery and supplies* as described in Item 35 of STCC, and (6) *transportation equipment* as described in Item 37 of STCC, between points in the U.S., under continuing contract(s) with Eagle International, Inc., of Brownsville, TX.

MC 147825 (Sub-4F), filed October 8, 1980. Applicant: VERNE'S AUTO SALES, INC., 2804 Neva Rd., Antigo, WI 54409. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Transporting *pallets, pallet parts, lumber, lumber products, skids, ties, timbers, and posts*, between points in WI and the Upper Peninsula of MI, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, KY, MI, MN, MO, NC, NM, OH, OK, SC, TN, TX, and WI.

MC 148654 (Sub-1F), filed October 8, 1980. Applicant: CLOVERLEAF TRANSPORTATION, INC., 14 Kerri Lane, Spring Valley, NY 10977. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting (1) *malt beverages*, and (2) *material and supplies* used in the manufacture and distribution of malt beverages, between points in NY, NJ, PA, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, NC, SC, GA, FL, AL, MS, LA, AR, MO, IA, MN, WI, IL, KY, TN, OH, ID, MI, and TX.

MC 149575F, filed October 6, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *ground limestone* and *ground barytes*, in bags, (1) between points in Bartow County, GA, on the one hand, and, on the other, points in AL, FL, NC, and SC, and (2) between points in Talladega County, AL, on the one hand, and, on the other, points in GA, FL, NC, and SC.

MC 152175F, filed October 7, 1980. Applicant: GRIFFIN CORPORATION OF VALDOSTA, GEORGIA, Rockyford Rd., P.O. Box 1847, Valdosta, GA 31601. Representative: Kenneth D. Combs (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between the facilities of Griffin Corporation of Valdosta, Georgia, at or near (a) Valdosta and Bainbridge, GA, and (b) Mexico, MO, on the one hand, and, on the other, points in the U.S.

Volume No. OP4–092

Decided: Oct. 15, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 4426 (Sub-3F), filed October 9, 1980. Applicant: M & T TRANSPORT, INC., 7397 Richmond Rd., P.O. Box 292, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202. Transporting *lumber or wood products*, except furniture as described in Item 24 of the Standard Transportation Commodity Code (STCC) Tariff, between points in AL, DE, FL, MD, NC, SC and VA, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI and VT.

MC 63417 (Sub-295F), filed October 9, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting (1) *new furniture and furniture parts*, from points in NC, SC, and VA, to points in the U.S. (except AK, HI, NC, SC, and VA), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. Condition: Issuance of a certificate in this proceeding is subject to the coincidential cancellation, at applicant's written request, of authority held in MC 63417 and Subs thereunder which duplicate, in full or in part, the authority herein.

MC 114416 (Sub-14F), filed October 8, 1980. Applicant: WESTERN TRANSPORT CRANE & RIGGING, a corporation, 100 Western Way, P.O. Box 3507, Missoula, MT 59801. Representative: Henry C. Winters, 525 Evergreen Bldg., 15 So. Grady Way, Renton, WA 98055. Transporting (1) *commodities* which because of size or weight require special handling or special equipment, (2) *related articles* and supplies when their transportation is incidental to the transportation of the commodities in (1) above, (3) *self-propelled articles* each weighing 15,000 pounds or more, and (4) *parts* of the commodities described in (1), (2), and (3) above, between points in the U.S. (including AK but excluding HI).

MC 123936 (Sub-6F), filed October 9, 1980. Applicant: RETAIL STORES DELIVERY OF RHODE ISLAND, INC., 215 Douglas Rd., Warwick, RI 02886. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *such commodities as are used in or dealt by retail department stores*, between points in CT, MA, ME, NH, NJ, NY, RI and VT.

MC 128837 (Sub-23F), filed October 10, 1980. Applicant: TRUCKING SERVICE INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *fresh meat*, between points in Cook and Macoupin Counties, IL, DeKalb, Fulton, Houston And Bibb Counties, Ga, Davidson and Bedford Counties, TN, Grayson and Dallas Counties, TX, on the one hand, and, on the other, points in the U.S. (except WA, OR, ID, NV, AZ, NM, CO, UT, WY, and MT).

MC 138157 (Sub-255F), filed October 8, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 So. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *metal articles*, (2) *chimneys*, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, between points in San Mateo County, CA and Warren County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142106 (Sub-3F), filed October 10, 1980. Applicant: VIP COMMUTER CORPORATION: 14810 Danville Rd., Dale City, VA 22193. Representative: Sylvanus G. Bent (same address as applicant) Transporting *passengers and their baggage*, in the same vehicle with passengers (1) in round-trip charter and special operations, beginning and ending at points in Prince William, Arlington, and Fairfax Counties, VA, and Washington, DC, and extending to points in the U.S. (including AK, but excluding HI), and (2) in special operations, between points in Prince William and Fairfax Counites, VA, and Washington, DC.

MC 147676 (Sub-4F), filed October 7, 1980. Applicant: KEATON TRUCK LINES, INC., 1000 So. Lelia St., P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington (same address as applicant). Transporting *general commodities* (except those of unusual value and classes A and B explosives), between points in the U.S., under continuing contract(s) with Velsicol Chemical Corp., of Chicago, IL.

MC 150567 (Sub-4F), filed October 10, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave., Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting *foodstuffs, and materials, equipment and supplies* used in the manufacture and distribution of

foodstuffs, between points in the U.S., under continuing contract(s) with Stokely-Van Camp, Inc., of Indianapolis, IN.

MC 151027 (Sub-2F), filed October 7, 1980. Applicant: GRADY J. MITCHELL d.b.a. MITCHELL TRUCKING COMPANY, Box 616, Dobson, NC 27017. Representative: Eric Meirhoefer, Suite 423, 1511 K St., N.W., Washington, D.C. 20005. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in NJ, DE, NY and PA, on the one hand, and, on the other, points in CA, TX and NV, restricted to traffic originating at or destined to the facilities of West Coast Shippers Association, Inc. and its members.

MC 152146 (Sub-1F), filed October 8, 1980. Applicant: FAR WEST TRANSPORTERS, INC., 14901 Chandler Rd., Omaha, NE 68138. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *electric cable and cable reels*, between Omaha, NE, on the one hand, and, on the other, points in AR, CA, ID, LA, MN, MT, OK, OR, TX, and WA.

MC 152147 F, filed October 2, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price (same address as applicant). Transporting (1) (a) *meats, meat products, meat by-products*, and *articles distributed by meat-packing houses*, and (b) foodstuffs (except those embraced in (a), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, A Division of Swift & Company, of Chicago, IL.

Volume No. OP4–095

Decided, October 17, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Chandler not participating.

MC 21866 (Sub-180F), filed October 14, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting (1) *paints, thinners, and commodities* used in the preparation and finishing of wood and metal (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 Delaware, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX (except OH).

MC 21866 (Sub-181F), filed October 14, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, DC 20036. Transporting (1) *printed matter*, and (2) *materials and supplies* used in the manufacture and distribution of printed matter (except commodities in bulk), between the facilities of R. R. Donnelley & Sons Co., at points in the U.S., on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 51146 (Sub-860F), filed October 14, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid (same address as applicant). Transporting *petroleum products*, in containers, between the facilities of Pennzoil Products Company, at or near Reno and Rouseville, PA, on the one hand, and, on the other, points in IL, IN, KY, MI, MN, MO, and WI.

MC 59247 (Sub-13F), filed October 14, 1980. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Rd., Linden, NJ 07036. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting (1) *containers, container ends, and container closures*, and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) above, between those points in the U.S. in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilities of Reynolds Metals Company.

MC 95876 (Sub-368F), filed October 14, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of stone and stone products, between points in the U.S.

MC 107107 (Sub-488F), filed October 15, 1980. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant). Transporting (1) *furniture* and *fixtures*, (2) *materials, equipment, and suplies* used in the manufacture and distribution of the commodities in (1) above, and (3) *brass and brass fittings*, between points in NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 126286 (Sub-18F), filed October 14, 1980. Applicant: NIX TRANSPORTATION, INC., P.O. Box 721 Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *lumber and wood products* (except furniture), and (2) *building materials*, between points in OR, WA, CA, ID, MT, UT, CO, NV, and AZ.

MC 136407 (Sub-33F), filed October 14, 1980. Applicant: COORS TRANSPORTATION COMPANY, a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. 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 Samsonite Corporation and Associated Grocers of Colorado, Inc., both of Denver, CO, Warner-Lambert Company, of Morris Plains, NJ, Storage Technology Corporation, of Broomfield, CO., and Hunt-Wesson Foods, Inc., of Fullerton, CA.

MC 149567 (Sub-1F), filed October 8, 1980. Applicant: KARAS & SONS, INC., 707 South 6th St., Princeton, MN 55371. Representative: Robert S. Lee, 1000 1st National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *tonics and cosmetics*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Sasco, of Dallas, TX.

MC 152177F, filed October 8, 1980. Applicant: KNUTSON CARPET HUT, INC., 1900 Virginia Ave., North Bend, OR 97459. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *textile mill products*, between Los Angeles, CA, Chattanooga, TN, and points in GA, on the one hand, and, on the other, points in OR and WA.

MC 152097 (Sub-1F), filed October 8, 1980. Applicant: UNITED CONTRACT CARRIER, INC., P.O. Box 355, Rear, 400 Brook St., Rocky Hill, CT 06067. Representative: Hugh M. Joseloff, P.O. Box 3258, Hartford, CT 06103. Tranporting *such commodities* as are dealt in or used by department stores, between points in the U.S., under continuing contract(s) with Ames Department Stores, Inc., of Rocky Hills, CT.

MC 152176F, filed October 7, 1980. Applicant: SAIN & HEAVNER TRUCKING, a corporation, Route 1, Box 316, Vale, NC 28168. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. Transporting

foodstuffs, in containers, from points in Greenville County, SC, to points in FL.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-33162 Filed 10-23-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-26231, appearing at page 57577 in the issue of Thursday, August 28, 1980, the sixth line of the third complete paragraph (beginning, "MC 148517 (Sub-2F)") on page 57584 should read, "Rapids, MI 49503. Transporting (1)".

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-30341, appearing at page 65072 in the issue of Wednesday, October 1, 1980, the first line of the last complete paragraph in column two on page 65074 should read, "MC 151403 (Sub-1F), filed June 16, 1980."

BILLING CODE 1505-01-M

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

Invitation for Statements in Response To the Request of the Province of British Columbia Concerning the Raising of the Level of the Skagit River at the International Boundary

The International Joint Commission has received a request from the Province of British Columbia to annul or amend the Commission's 1942 Order of Approval which authorized the raising of the natural level of the Skagit River at the International Boundary to elevation 1725 feet above mean sea level or to declare invalid a 1967 Agreement between the City of Seattle and the Province regarding compensation for damages in Canada. First notice of receipt of the above "request" was announced through a press statement dated September 16, 1980.

In accordance with its Rules of Procedure, the Commission requests Statements in Response from interested persons setting forth facts and arguments bearing on the subject matter and tending to oppose or support the Request in whole or in part. Closing date for receipt of such statements is December 17, 1980.

The Statements in Response will be sent to the Province of British Columbia which may submit a Statement in Reply within thirty (30) days. The Commission will then consider what further action it should take to dispose of this matter.

Statements should be forwarded to:

David G. Chance, International Joint Commission, Canadian Section, Berger Building, 100 Metcalf Street, 18th Floor, Ottawa, Ontario K1P 5M1.

David A. LaRoche, International Joint Commission, United States Section, 1717 H Street, NW., Suite 203, Washington, D.C. 20440.

David A. LaRoche,

Secretary, U.S. Section, International Joint Commission.

October 17, 1980.

[FR Doc. 80-33185 Filed 10-23-80; 8:45 am]

BILLING CODE 4710-14-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on November 19-20 in Oakland, California.

This meeting is being held in conjuction with the Seventh and Ninth Circuit Sentencing Institute. The purpose of the meeting is to discuss five agenda items related to the role of the Federal Government in Corrections.

Signed at Washington, D.C., this 21st day of October, 1980.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 80-33192 Filed 10-23-80 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Tripartite Advisory Panel on International Labor Standards; Meeting

Note.—This document originally appeared in the **Federal Register** for Wednesday, October 22, 1980. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Labor Department.

In accordance with Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is hereby given of a meeting of the Tripartite Advisory Panel on International Labor Standards, which is a subcommittee of the President's Committee on the International Labor Organization.

Name: Tripartite Advisory Panel on International Labor Standard.

Date: November 6, 1980.

Time: 10:00 a.m.

Place: Department of Labor, 3rd and Constitution Ave. NW., Room C-5515, Washington, D.C. 20210.

This meeting will be closed to the public under authority of Section 10(d) of the Federal Advisory Committee Act, as amended. During its closed session, the Committee will discuss classified materials relating to United States participation in the International Labor Organization. Additionally, the meeting will involve discussion of information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. It is not practicable to segregate a portion of the meeting to permit public participation.

All communications regarding this subcommittee should be addressed to Carin A. Clauss, Solicitor of Labor, U.S. Department of Labor, 3rd and Constitution Ave. NW., Washington, D.C. 20210, telephone (202) 523-7675.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-33114 Filed 10-21-80; 8:45 am]

BILLING CODE 4510-28-M

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 21st day of October 1980.

Glenn M. Zech,

Acting Director, Office of Program Service.

Applications Received During the Week Ending Oct. 25, 1980

Name of applicant and location of enterprise	Principal product or activity
Farm and Poultry Products, Inc., Lumberton, North Carolina.	Processing and shipping of eggs.
Seaboard Coast Line Railroad Company, Winston, Florida.	A modern freight car running repair and diesel locomotive servicing facility at Winston Yard.
Sea Krisp, Inc., Apalachicola, Florida.	Shrimp processing and ship construction repair.
Green Acre Farms, Inc., Sebastopol, Mississippi.	Intergration broiler chickens operations.

[FR Doc. 80-33308 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-125-C]

Last Try Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Last Try Coal Company, P.O. Box 324, Minersville, Pennsylvania 17954 has filed a petition to modify the application of 30 CFR 75.301 to its Last Try Slope located in Northumberland 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. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 24, 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: October 14, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-33235 Filed 10-24-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. N-80-131-C]

R & R Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

R & R Coal Company, P.O. Box 182, Stevenson, Alabama 37772, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Mine No. 2 located in Jackson County, Alabama. 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 coal seam ranges in height from 36 to 45 inches with poor top and wet bottom conditions.

2. Petitioner states that installation of lighting fixtures onto the mine's self-propelled electric face equipment would result in a diminution of safety to the miners affected because:

a. System failure will result in an instantaneous change in light intensity. Therefore, the equipment operator and those miners present in the general area will be temporarily blinded;

b. the performance of the foreman's duties will be impaired due to this person traveling from light to dark areas;

c. extreme mining conditions (34,000 psi cutting and drilling) introduce machine vibrations that cause lighting failure on a frequent basis; and

d. the location and placement of the lights on the equipment causes extreme glare conditions.

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 November 24, 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: October 14, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-33236 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-123-C]

Regina Fuel Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Regina Fuel Coal Company, Route 1, Box 224A, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 6 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 coal seam ranges in height from 40 to 46 inches.

2. Petitioner states that installation of cabs or canopies on the mine's equipment would result in a diminution of safety to the miners affected because the canopies would damage the mine's permanent roof support.

3. In addition, the installation of canopies would cause the equipment operator to hang out from the equipment for visibility purposes, exposing the operator to even greater hazards.

4. 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 November 24, 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: October 14, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-33237 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; NACOSH Appointments

Notice is hereby given that appointments have been made to fill six (6) vacancies on the National Advisory Committee on Occupational Safety and Health. The vacancies were created by the expiration of the terms of six members on June 30, 1980. Four of the vacancies will be filled by members who have been asked to serve another term, they are:

Dr. Nicholas A. Ashford, Public representative
Dr. Richard E. Ginnold, Public representative
Mr. John J. Sheehan, Labor representative
Dr. Peter J. Nord, Management representative

The other two vacancies will be filled by persons who have not previously served on NACOSH, they are:

Ms. Carol Oppenheimer, Public representative
Dr. Thomas Rockwell, Safety representative

Each of these members has been appointed for a term which will end on June 30, 1982.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 523-8024.

Signed at Washington, D.C. this 16th day of October 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-33243 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-7374]

Firestone Tire & Rubber Co. Pottstown, Pa.; Negative Determination on Reconsideration

On June 19, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing passenger car tires at Firestone's Pottstown, Pennsylvania plant. This determination was published in the **Federal Register** on June 27, 1980, (45 FR 43493).

The Congressman claimed in his application for reconsideration that the Department conducted its investigation of the Pottstown Pennsylvania plant in a different way than the investigations concerning the Firestone plants in Salinas, California, TA-W-6551, and Los Angeles, California (South Gate), TA-W-5923, whose workers were certified for trade adjustment assistance. The application further claimed that a significant proportion of the tires produced by the Pottstown plant were private brands and at least one of these private brands has been identified by the Department as having an import penetration "significantly higher" than the national average. Lastly, the application claimed that the Department's investigation was not timely, thorough or deliberate.

The Department's review showed that workers at Firestone's Pottstown, Pennsylvania plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of major customers and a random sample of smaller customers of Firestone who purchased passenger car and truck tires showed that the respondents' reliance on imports of passenger car tires was substantially below the industry wide levels of imports in 1978 and 1979. With respect to truck tires, a minor part of the production at Pottstown, most customers indicated that they either did not import or had decreased their imports of truck tires in 1979 compared to 1978. Truck tire customers who decreased purchases from Firestone and increased imports represented an insignificant proportion of truck tire sales for Firestone. The Department notes further that Firestone workers at Pottstown were denied eligibility for trade adjustment assistance in an earlier case on May 10, 1979, TA-W-4830.

The Pottstown plant was primarily a bias tire plant for passenger car tires.

Company officials at the corporate level indicated that Firestone has excess capacity for passenger car bias tires, the future for bias tires is bleak and Firestone will not supply any bias tires for the 1981 passenger car models. The Department finds that the demand for bias tires in the replacement market is down because of less miles driven, due to rising gasoline costs, and prolonged tire life, due to the lowered speed limit and the better quality of bias tires. On top of these developments has been the recent severe slump in the auto industry, aggravated by import competition. However, increased auto imports cannot be used as a basis for certifying employees of independent tire producers. The Department had previously determined that component parts are not like or directly competitive with the finished articles. This position has been supported by the courts.

The Department sees little validity in the claim that its investigation of the Pottstown plant was conducted differently than for the Firestone plants in Salinas and South Gate in California. The Salinas and South Gate certifications were based on data available at the time of the investigation. The petition dates for the Salinas and South Gate worker groups are November 16, 1979 and August 21, 1979, respectively while the petition date for the Pottstown worker group is February 13, 1980. In the Salinas and South Gate cases, company import data for passenger car tires ran to November, 1979 and July, 1979, respectively; the downward trend in company imports which began in the third quarter of 1979 was not yet obvious at the time of these investigations. In the Pottstown case, however, the Department had company import data through March, 1980 which showed clearly a significant decrease in company import activity. Company imports of passenger car tires showed dramatic declines in each of three successive quarters beginning with the third quarter of 1979.

The Department, in the Salinas investigation, conducted a two-part survey on Firestone's customers: one national accounts and the other local, including local Western accounts. The reason for the interest in local Western accounts reflected the Department's understanding that half of Salinas's output was sold in Western markets. The result of the Western local account survey showed a 40 percent increase in the extent of import penetration over the survey period. A similar situation prevailed with respect to the marketing of South Gate's tires. In the Pottstown case, the Department did not conduct a regional customer survey because it was the Department's understanding that Pottstown's output was marketed nationally.

Further, at the time of the Salinas and South Gate investigations, the Department had U.S. aggregate import data through September and June 1979, respectively which showed U.S. imports of passenger car tires increasing both absolutely and relative to domestic production in the first six months and the first nine months of 1979 compared to their respective periods in 1978. However, at the time of the Pottstown investigation, U.S. aggregate imports of passenger car tires were declining both absolutely and relative to domestic production in the first three months of 1980 compared to the same period in 1979. Updated U.S. import data for passenger car tires show that these imports fell sharply in the first six months of 1980 compared to the same period in 1979. The Department found that the downward trend in company imports of passenger car tires beginning in the second half of 1979 runs in tandem with the decline in U.S. aggregate imports of passenger car tires for that period and the first six months of 1980.

In its reconsideration, the Department updated its earlier Firestone surveys and conducted another large random survey of Firestone's customers including over half of their private brand customers. These surveys included customers which accounted for a substantial share of Firestone's total sales decline in 1980. The Department's updated survey showed that the import reliance in passenger car tires in the first six months of 1980 was not significant. The random survey showed that import reliance in the first six months of 1980 was below that for the same period in 1979. The few responding customers with declining purchases from Firestone and increasing imports were not significant as they represented less than one-half of one percent of Firestone's total sales decline in 1979 and 1980.

The Department found that although the Pottstown plant produced a substantial amount of private brand passenger car tires, only a negligible amount of Pottstown production consisted of Seiberling or Zenith tires—the primary house brands at the Barberton, Ohio facility of a Firestone subsidiary (Seiberling Tire and Rubber Company). The Department found that of the 38 private brands listed in the application, seven haven't been produced in over 3 years, another three were not familiar to company officials at the corporate level who indicated they either were discontinued long ago or are different lines within a private brand and 18 were included in the Department's survey among which were several of Firetone's largest private label customers.

The Department's certifications of Salinas and South Gate were based on three elements: the trend in company imports, the trend in aggregate imports; and the results of the survey of the plants' customers. On all three points the data indicate contrary results in the Pottstown case.

Conclusion

After reconsideration, I reaffirm the originial denial of eligibility to apply for adjustment assistance to workers and former workers of the Pottstown, Pennsylvania plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C., this 10th day of October 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-33241 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9673]

Michigan Plating & Stamping Co., Grand Rapids, Mich.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In **Federal Register** Doc. 80-24272 appearing on page 53615 in the **Federal Register** of August 12, 1980 the location in the Appendix under petitioner Michigan Plating & Stamping Company, TA-W-9673 should be corrected to read Grand Rapids, Michigan.

Signed at Washington, D.C. this 17th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-33240 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-28-M

Rexnord, Inc., 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

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 of 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-9106; Rexnord, Inc., Milwaukee, Wis.

Investigation revealed that criterion (2) has not been met.

TA-W-9527; Dun Rite Roofing Co., Inc., Farmington Hills, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8804; Garay Co., New York, N.Y.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8030; Davison Manufacturing Co. and Bennett Equipment Corp., Detroit, Mich.

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-9430; Joseph Petrilli, Inc., Egg Harbor, N.J.

Investigation revealed that criterion (3) has not been met. Separations from the subject firm were seasonal in nature.

TA-W-9029; Molded Materials Co., Ridgway, Pa.

Investigation revealed that criterion (3) has not been met. U.S. imports of friction brake blocks are negligible.

TA-W-8852 and 8853; Frank D. Saylor & Son, Inc., Birmingham, Mich. and Clarkston, Mich.

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of conduit for wire harnesses are negligible.

TA-W-8429; White Cloud Products, Inc., White Cloud, Mich.

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-10,288; Leonard Automatics, Inc., Denver, N.C.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-10,434; Sterling Steel Treating, Inc., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,389; Commonwealth Industries, Inc., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,369; Diamond Heat Treating, Inc., Detroit, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9734; Chase Metals Service, Inc., Madison Heights, Mich.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9617; Fullerton Metals Co., Indianapolis, Ind.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,539; Canteen Service Co. of Indianapolis, Anderson, Ind.

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-7328; Hardware Spring Corp., Detroit, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7668; Henzler Manufacturing Corp., Toledo, Ohio.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9969; Gad Cartage Co., Inc., Dearborn, Mich.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-10,020; Tel-x Corp., Farmington, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9005 and 9011; Consolidation Coal Co.; Harmar Coal Co., Harmar Mine, Harmarville

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7823; Bostick Foundry Co., Lapeer, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8775; Leroy Machine Co., Inc., Leroy, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9140; York Merit Products, Inc., Ellicottville, N.Y.

Investigation revealed that criterion (3) has not been met.

TA-W-9299; A. C. Dellovade, Inc., Lackawanna, N.Y.

Investigation revealed that criterion (3) has not been met. Workers of the subject firm perform sheet metal work

related to the construction of steel plants and power houses. Such activities are not like or directly competitive with imports of steel as required for certification under Section 223 of the Act.

TA-W-7925; A. E. Nettleton Shoe Co., Syracuse, N.Y.

Investigation revealed that criterion (3) has not been met. Sales, production and employment at the firm did not decline as required for certification. Company imports declined beginning in the second half of 1979 through the first half of 1980.

TA-W-8773; Jax Mold & Machine, Inc., Decatur, Ala.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,505; Barberton Recon-Center Co., Barberton, Ohio

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Act.

TA-W-10,253; Reilly Plating Co., Melvindale, Mich.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Act.

TA-W-7618; Goodyear Tire & Rubber Co., Bakersfield, Calif.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7830; Bradford Production, Inc., Southfield, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8026; Acco Industries, Inc., Blytheville, Ariz.

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-9086; Alcox Corp., Niagara Falls, N.Y.

Investigation revealed that criterion (3) has not been met. U.S. imports of corrosion inhibitors and oil additives are negligible.

TA-W-7945; E. F. Houghton Co., Detroit, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8153; Harmon Colors Corp., Haledon, N.J.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8099; Getty Fashions, Inc., Yonkers, N.Y.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9662; Acco Industries, Inc., Adrian, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,699; First Ford, Des Plaines, Ill.

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-8103 & 8104; G. B. Dupont Co., Inc.; Troy, Mich.; Lapeer, Mich.

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-7705; R. J. Tower Corp., Greenville, Mich.

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-9632; Tonawanda Coke Corp., Tonawanda, N.Y.

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-8570; U.S. Steel Corp., Fairfield, Ala.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-8274; Neapco, Inc., Pottstown, Pa.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,671, 10,672, and 10,673; Haweley Coal Mining Corp.; Bradshaw, W. Va.; Empire Division Tripple, Landgraff, W. Va.

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-10,258; Consolidation Coal Co., Central City, Pa.

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-7550; American Nu-Color, Inc., Manville, N.J.

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-8324; Spencer Hill Suit Co., Inc., Brooklyn, N.Y.

Investigation revealed that manufacturers for which the subject firm produced under contrct increased their contracts with other domestic firms.

TA-W-7667; Yale Rubber Manufacturing Co., Inc., Sandusky, Mich.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines

and worker separations at the subject firm.

TA-W-9185; Gary Bergman Carpentry; Orchard Lake, Mich.

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-10,270; C & A Coal Co., Inc.; C & A Coal Mine; Blackwolf, McDowell County, W. Va.

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-8007; Metal Forge Co., Columbus, Ohio.

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-8684; Berg-Torseth, Inc., St. Paul, Minn.

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-8424; Machining Enterprises, Inc., Mt. Clemens, Mich.

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-9645; Florsheim Shoe Co., Anna, Ind.

Investigation revealed that criterion (3) has not been met. The earliest possible impact date in this case is April 13, 1980. Significant separations from the subject plant have not occurred since that time.

Affirmative Determinations

TA-W-8016 and 8016A; Summit Warehouses, Inc.; Mogadore, Ohio and Akron, Ohio

A certification was issued covering all workers of the firm separated on or after July 30, 1979.

TA-W-9176; Oak Industries, Inc., Oak Materials Group, Inc., Oak Laminates Division, Hayward, Calif.

With respect to workers engaged in employment related to the production of rigid epoxy glass laminates, a certification was issued applicable to all such workers separated on or after June 1, 1980.

With respect to workers producing thin epoxy glass laminates the investigation revealed that criterion (3) has not been met. Imports of thin epoxy glass laminates are negligible.

TA-W-8266 and 8266A; Modern Manufacturing Co.; Columbiaville, Mich.; Madison Heights, Mich.

A certification was issued applicable to all workers at the subject firm separated on or after May 8, 1979.

TA-W-7914; Dana Corp., Hagerstown Controls Plant, Hagerstown, Ind.

A certification was issued applicable to all workers at the subject firm separated on or after April 23, 1979 and before October 1, 1979.

TA-W-9078; Lanson Industries, Oceanside, N.Y.

A certification was issued applicable to all workers at the subject firm separated on or after March 2, 1980.

TA-W-10, 700; Ford Motor Co., Atlanta Marketing Institute, Hapeville, Ga.

A certification was issued covering all workers of the firm separated on or after September 1, 1980 and before November 1, 1980.

TA-W-8027 and 8028; Brand X Fashions, Inc.; P. H. Leather & Suede, Inc. New York, N.Y.

A certification was issued applicable to all workers at the subject firm separated on or after April 27, 1979.

TA-W-7817 and 7817A; Vanette Originals, Inc.; Fran Carol Originals, Inc., Brooklyn, N.Y.

A certification was issued applicable to all workers at the subject firm separated on or after April 18, 1979.

TA-W-7784; Conklin Forging Co., Inc., Detroit, Mich.

A certification was issued applicable to all workers at the subject firm separated on or after April 11, 1979.

I hereby certify that the aforementioned determinations were issued during the period October 14–17, 1980. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: October 20, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-33239 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6815, 7104, 7105]

Wagner Electric Corp.; Negative Determination on Reconsideration

On April 28, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Wagner Electric Corporation's Plymouth Avenue plant, Berkeley plant and the Lackland Road plant, all located in St. Louis, Missouri.

The union claimed that the Department did not consider that the increasing displacement of U.S. automobile production in the domestic market by foreign manufacturers had a proportionate adverse effect on domestic manufacturers of replacement parts as such replacement parts become needed. This follows, a priori, from the observation that foreign manufactured automobiles require, in large part, foreign manufactured replacement parts. The union further submits that Wagner Electric has invested substantially in supplying its service branches with company imports of replacement parts to fit imported automobiles.

The union's first argument, that the workers of Wagner Electric should be certified eligible to apply for adjustment assistance on the basis of increases in imports of brakes and brake components as replacement parts for imported automobiles, presupposes that brakes and brake components manufactured to fit imported automobiles are like or directly competitive with brake and brake components manufactured to fit domestically produced automobiles. However, the Department does not consider these brakes and brake components to be like or directly competitive with one another since they are neither substantially identical nor substantially equivalent for commercial purposes. Although Wagner Electric markets brakes and brake components to fit imported automobiles, Wagner does not produce brakes or brake components for imported automobiles. Wagner imports all brakes and brake components for use in imported automobiles.

With regard to the union's claim that Wagner Electric has invested substantially in supplying its service branches with imported brakes and brake components to fit imported

automobiles, it should be noted that Wagner's imports of brakes and brake components were insignificant in relation to total firms sales of brakes and brake components in 1978 and 1979. Moreover, as stated above, Wagner does not produce brakes and brake components which are like or directly competitive with the brakes and brake components it imports.

The Department is unable to conclude that increased competitive imports of brakes and brake components have contributed importantly to the separation of workers and to the decrease of production or sales at Wagner Electric's Plymouth Avenue plant, Berkeley plant and Lackland Road plant, all located in St. Louis, Missouri.

While it is possible that some of the brakes or brake components imported by Wagner's customers were designed for use in domestically produced automobiles and, thus, could be considered like or directly competitive with the brakes and brake components produced by Wagner, a survey of Wagner's customers indicated that such imports were negligible.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Wagner Electric Corporation's Plymouth Avenue plant, Berkeley plant and Lackland Road plant in St. Louis, Missouri.

Signed at Washington, D.C., this 15th day of October 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-33242 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-28-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting:

NAME: Minimum Wage Study Commission.

DATE: Thursday, November 13, 1980.

TIME: 10:30 a.m.

PLACE: The Hay-Adams Hotel, 800 Sixteenth St. NW. At Lafayette Square, Washington, DC 20006.

Original notification of this meeting date appeared in the **Federal Register** on September 24, 1980.

Proposed Agenda:

1. Conglomerate Report by Arthur Young & Company and discussants

2. Literature Review on sheltered workshops

3. Recommendations on transportation exemptions

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, 1430 K St. NW, Suite 500, Washington, DC 20005; telephone (202) 376-2450.

Next meeting of the Commission will be Monday, December 15, 1980.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-33234 Filed 10-23-80; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published Sep. 18, 1980 (45 FR 62236). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267. ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Transportation of Radioactive Materials*, October 29, 1980, Washington, DC. The Subcommittee will consider the scope of its review of the transportation certification process for package design of the NRC Transportation Certification Branch. Notice of this meeting was published Oct. 16.

**Babcock and Wilcox Water Reactors*, October 30, 1980 (rescheduled from Oct. 31), Washington, DC. The Subcommittee will review the Feb. 26, 1980 event at the Crystal River Nuclear Power Plant, Unit No. 3, to determine if there are any significant features or causes that are generic to Babcock and Wilcox reactors. Notice of this meeting was published Oct. 16.

**Three Mile Island Nuclear Power Plant, Unit No. 1*, October 30-31, 1980—RESCHEDULED TO NOVEMBER 28-29, 1980, Washington, DC. Notice of this meeting was published Sep. 18.

**General Electric Test Reactor (GETR)*, November 4, 1980 (rescheduled from Nov. 5), Washington, DC. The Subcommittee will continue its review of GETR structural integrity when subjected to design basis loads. In addition, the Subcommittee will discuss other topics such as landslide hazards. Notice of this meeting was published Oct. 20.

**Regulatory Activities*, November 5, 1980, Washington, DC. The Subcommittee will review Proposed Regulatory Guides 1.12, Revision 2, "Instrumentation for Earthquakes" and 1.97, Revision 2, "Instrumentation for Light-Water-Cooled Nuclear Power Plants and Assess Plant and Environs Conditions During and Following an Accident." Also, the Subcommittee will review Proposed Amendment to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities" on Interim Requirements Related to Hydrogen Control and Certain Degraded Core Conditions. Notice of this meeting was published Oct. 21.

**Procedures and Administration*, November 5, 1980, (afternoon) Washington, DC. The Subcommittee will review items proposed as methods to strengthen the role of the ACRS in the regulatory process. Notice of this meeting was published Oct. 21.

**Fluid Dynamics*, November 13, 1980, San Francisco, CA. The Subcommittee will review Nucle Dyne's Passive Containment System and the status of NRC Programs on Mark II Containments and Asymetric Loads. Notice of this meeting was published Sep. 18.

**Waste Management*, November 13-14, 1980, Washington, DC. The

Subcommittee will continue to obtain information to aid the full Committee in preparing a response to the NRC Commissioners' request for comments on proposed rulemaking on the storage and disposal of nuclear waste and the adequacy of the record. (Waste Confidence Rulemaking PR-50, 51).

**Combination of Dynamic Loads,* November 18-19, 1980, Jupiter, FL. POSTPONED TO EARLY DECEMBER, WASHINGTON, DC. Exact date will be announced later. Notice of this meeting was published Sep. 18.

**Evaluation of Licensee Event Reports,* November 20, 1980, Washington, DC. The Subcommittee will discuss with representatives of the NRC Staff possible modifications to the NRC collection and storage of operational data from nuclear power plants. Notice of this meeting was published Sep. 18.

**Consideration of Class-9 Accidents,* November 21, 1980, Washington, DC. The Subcommittee will review the NRC Safety Research Budget for FY-82 Decision Unit on Severe Accident Phenomena and Mitigation Research. Also, it will discuss the Advance Notice of Rulemaking on Degraded Core Accidents, and will continue its review of hydrogen control methods during accidents in nuclear power plants.

**Three Mile Island Nuclear Power Plant, Unit No. 1,* November 28-29, 1980 (rescheduled from October 30-31, 1980), Washington, DC. The Subcommittee will review the modification made to TMI-1 in preparation for a restart following the TMI-2 accident.

**Advanced Reactors,* December 2, 1980, Washington, DC. The Subcommittee will review the current proposal for FY-82 budget in preparation for the annual report to Congress.

**Reactor Operations,* December 2, 1980, Washington, DC. The Subcommittee will discuss NRC guidelines for utility management structure and technical resources.

**Regulatory Activities,* December 2, 1980 (rescheduled from December 3), Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation. Notice of this meeting was published Sep. 18.

**Reliability and Probabilistic Assessment,* December 3 (morning), 1980, Washington, DC. The Subcommittee will review the NRC Safety Research Program Budget for FY-82 Decision Unit on Systems and Reliability Analysis (SARA).

**Reactor Safety Program,* December 3, 1980, Washington, DC. The Subcommittee will discuss new developments in NRC Safety Research Programs since the issuance of the ACRS Report to NRC (NUREG-0699); preliminary draft chapters or sections of the ACRS Report to Congress; and the Department of Energy's Light-Water-Reactor Safety Technology Program.

**Emergency Core Cooling Systems,* December 10-11, 1980, San Jose, CA. The Subcommittee will review NRC research programs related to transients, LOCA, and ECCS, and the work being done at the Lawrence Livermore Laboratory on Hydrogen Control.

**Reactor Radiological Effects and Site Evaluation,* December 11, 1980, Washington, DC. The Subcommittee will discuss preparation of appropriate chapters of the ACRS annual Reactor Safety Research Report to Congress.

**Reactor Radiological Effects,* December 12, 1980, Washington, DC. The Subcommittee will discuss the state-of-the-art in the area of radiation standards and dose limits to radiation workers. Notice of this meeting was published Sep. 18.

**Site Evaluation,* December 13, 1980, Washington, DC. The Subcommittee will discuss the Generic Environmental Impact Statement on Class-9 Accidents at nuclear power plants.

**Metal Components,* January 7, 1981, Washington, DC. The Subcommittee will discuss inservice inspection techniques as applied to the reactor coolant pressure boundary.

ACRS Full Committee Meetings

November 6-8, 1980

A. **North Anna Nuclear Power Plant, Unit No. 2:* Discussion of items related to plant staffing, results of the augmented low-power test program, reliability and risk assessment, steam generator tube integrity, and decay heat removal capability.

B. **General Electric Test Reactor:* Seismic upgrading/proposed operation of the GETR.

C. **BWR Hydraulic Scram Systems:* Performance of BWR hydraulic scram systems.

D. **Methods to Strengthen the ACRS Role in the Regulatory Process:* Discussion with Chairman, Nuclear Safety Oversight Committee.

E. **Meeting with NRC Chairman and Commissioners:* Discussion of procedural and safety related aspects of the nuclear regulatory process.

F. **Regulatory Activities:* Discussion of proposed changes in NRC Regulatory Guides and Rules including RG 1.97, Revision 2, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident," and Proposed Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations (10 CFR 50).

G. **Unresolved Generic Items Applicable to Light-Water Reactors:* Review of the status of generic items identified in ACRS Report No. 7, dated March 21, 1979.

H. **Diablo Canyon Nuclear Power Plant:* Discussion of seismic interaction study and related plant modifications.

I. **Safety Related Reports:* Reports by NRC Staff and designated ACRS Subcommittee Chairmen regarding various safety related matters including the status of recovery operations at TMI-2, the implications of operating experience at the Crystal River Nuclear Power Plant, including the incident of Feb. 26, 1980, proposed changes in NRC Regulatory Guides, status of the program for design/development of a system for control of combustible gasses in nuclear power plants making use of ice-condenser containment such as the Sequoyah Nuclear Power Plant.

December 4-6, 1980: Agenda to be announced.

January 8-10, 1981: Agenda to be announced.

Dated: October 21, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-33204 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Babcock and Wilcox Water Reactors; Date Change

The meeting date for the ACRS Subcommittee on Babcock and Wilcox Water Reactors has been changed to *October 30, 1980* (instead of October 31 as previously announced).

All other items regarding this meeting remain the same as stated in the **Federal Register** notice published October 16, 1980 (45 FR 68817).

Dated: October 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-33203 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co., (Arkansas Nuclear One, Unit 2); Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendment No. 16 to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company for Operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amendment was effective as of September 19, 1980.

The amendment revised the Appendix A Technical Specifications by specifying that the two independent containment cooling groups shall be operable with at least one operational cooling unit per group. The Appendix A Technical Specifications had previously required that the two independent containment cooling groups shall be operable with two operational cooling units in one group and at least one operational cooling unit in the second group. The revision also increased the frequency of verifying the service water flow rate of the containment cooling groups from once every 31 days to once every 14 days with chlorination of the service water whenever the water temperature is between 60 and 80 degrees Fahrenheit.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 16, 1980, (2) the Commission's letter to the licensee dated September 19, 1980 (3) Amendment No. 16 to Facility Operating License No. NPF-6, and (4) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N. W., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Arkansas 72801. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 9th day of October 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-33208 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289 (Restart)]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Memorandum and Order Scheduling Emergency Planning Session

October 17, 1980.

Take notice that a hearing session to take up prehearing matters relating to emergency planning, including new contentions which have been proposed, will be held at the TMI-1 Hearing Room, 25 Court Street, Harrisburg, Pennsylvania, on October 30, 1980, at 9:00 a.m. All parties interested in the issue of emergency planning are directed to attend.

The parties are cautioned that such courtesy written notification, which confirms an action of the board taken on the record of the evidentiary hearing, will not normally be undertaken. Parties who choose not to attend sessions of the hearing are not excused from the responsibility of being aware of actions taken at the hearing. This responsibility can be fulfilled by various means, including monitoring the transcript and staying in contact with parties present at the hearing.

The Atomic Safety and Licensing Board.

Harrisburg, Pennsylvania, October 17, 1980.

Ivan W. Smith,

Chairman.

[FR Doc. 80-33210 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2, (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to authorize Cycle 4 operation at 2700 MWt with a mixed core with one-third Westinghouse fuel and two-thirds Combustion Engineering fuel and modified guide tubes for the control element assemblies. The amendment also incorporates changes resulting from the analysis of the Cycle 4 reload with Westinghouse fuel, adds surveillance requirements for engineered safety features components leakage outside containment, allows continuation of low temperature operation for special tests, corrects the shutdown margin for Mode 5, and prevents containment purging in Modes 1, 2, 3 and 4.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated August 10, 1979, May 9, August 29 and September 30, 1980, (2) Amendment No. 61 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of October, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-33207 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective as of the date of issuance.

The amendment revised the Technical Specifications related to fire protection by the addition of operability and surveillance requirements for new equipment added pursuant to the Trojan fire protection review published with Amendment No. 22 dated March 9, 1978. The amendment also contains miscellaneous changes pertaining to fire protection. The issuance of this amendment and related supplement to the Fire Protection Safety Evaluation Report completes the NRC's fire protection review for the Trojan facility. The amendment also corrects a drafting error on Figure 3.1-1 of the Technical Specifications.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated June 19, 1980, (2) Amendment No. 50 to License No. NPF-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of October 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-33205 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company, (the licensee), which revised the license for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of the date of issuance and is to be fully implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendment revises license condition 2.D. to include the Commission-approved Safeguards Contingency Plan as a part of the Physical Security Plan.

The licensee's filing complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

The licensee's filing dated May 7, 1980 is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. to License No. NPF-1 and (2) the Commission's related letter to the licensee dated October 6, 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of October, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-33206 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.8, Revision 1, "Guide for the Preparation of Applications for Medical Programs," describes the type and extent of information needed by the NRC staff to evaluate an application for a specific license for the possession of byproduct material (reactor-produced radionuclides) and its use in or on human beings. This guide was revised as a result of recent licensing experience, public comments, and additional staff review.

Comments and suggestions in connection with (1) items for inclusion

in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publication Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 14th day of October 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-33209 Filed 10-23-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Establishment of Prescribed Minimum Educational Requirements; Industrial Hygiene Series, GS-690

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has revised the prescribed minimum educational requirement for industrial hygienists employed within the Federal service. The previous requirement of 15 semester hours in chemistry has been changed to 30 semester hours in the physical or natural sciences or engineering, 12 hours of which must have been in chemistry. This change, while continuing to recognize the fundamental chemistry knowledge, also recognizes the breadth of scientific disciplines used in the performance of work in this profession. The prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Lynn C. Hashian, Personnel Management Specialist, Standards Development Center, U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, 202-254-8527.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of title 5, United States Code, the Office of Personnel Management has revised the prescribed minimum educational requirement for industrial hygienists employed within the Federal service. The requirement, the duties of the positions, and the reasons for the Office of Personnel Management's decision that the requirement is necessary are set forth below:

Industrial Hygiene Series, GS-690, GS-5 through GS-15

Minimum Educational Requirement

Candidates for positions as industrial hygienists must have completed successfully a 4-year course of study in an accredited college or university, or the equivalent, creditable toward a bachelor's or higher degree in industrial hygiene, or in a branch of engineering, physical science or life science. This study must have included or been supplemented by 12 semester hours in chemistry which included organic chemistry, as well as 18 additional semester hours of courses in any combination of the following fields: chemistry, physics, engineering, health physics, environmental health, biostatistics, biology, physiology, toxicology, epidemiology, or industrial hygiene.

Duties

Industrial hygienists are concerned with the prevention of disease through proper control of the work environment. This involves the recognition of health problems created within the occupational environment, the evaluation of the occupational environment in terms of the long range as well as the short range effects on health, and the development of corrective measures in order to eliminate existing problems. Some of the more frequently encountered causes of these health problems are chemical agents, physical energy, biological agents, and ergonomic factors. These stresses must all be evaluated in terms of their danger to life and health, as well as their influence on the natural bodily functions. Industrial hygienists conduct surveys of worksites to identify and evaluate conditions which may be unhealthful to the worker, using a variety of equipment to take samples from the environment and to collect personal data from workers. Other functions performed by industrial hygienists include developing standards, calibrating and operating highly technical instrumentation, preparing methods and techniques for use by other occupational health and safety personnel, conducting epidemiologic studies to uncover the presence of occupation-related illness, developing and presenting education and training programs for employees and supervisors, reviewing design plans for facilities or for modifications to existing facilities, investigating new processes and materials for adequacy of health hazard controls, and managing occupational health programs. Industrial hygienists evaluate data collected from the environment, using laboratory analysis and extensive literature searches, and recommend or prescribe measures to control any unhealthful conditions identified.

Reason for Establishing Requirement

Because potential health hazards in the work environment may result from chemical, physical, or biological agents, or from a combination of these, industrial hygienists must have a broad basic background in the physical or natural sciences, or engineering. This background can only be acquired through the successful completion of a course of study in an accredited college or university which has thoroughly trained instructors who provide the technical and scientific course work, laboratory and library research, and the evaluation of progress necessary to the acquisition of professional competence.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 80-33266 Filed 10-23-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17226; File No. SR-NASD-79-12]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

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 October 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed revision of Schedule G under Article XVIII of the By-Laws of the National Association of Securities Dealers, Inc. (the "NASD" or the "Association").

Note.—*Italics* indicate new material; brackets indicate deletions.

Schedule G

This Schedule has been adopted pursuant to Article XVIII of the Corporation's By-Laws and shall apply to all over-the-counter transactions in listed securities that are required to be reported to the Consolidated Tape ("eligible securities"), as provided in the Plan filed by the Association pursuant to Rule 11Aa3–1 under the Securities Exchange Act of 1934 ("Plan").

Section 1—Definitions

(a) Terms used in this Schedule shall have the meaning as defined in the By-Laws and Rules of Fair Practice, Rule 11Aa3–1 and the Plan, unless otherwise defined in this Schedule.

(b) "Consolidated Tape" means the consolidated transaction reporting system for the dissemination of last sale reports in eligible securities required to be reported pursuant to the Plan.

(c) "Designated Reporting Member" means a member of the Association which executes over-the-counter transactions in eligible securities, maintains transaction reporting capability through the NASDAQ System, and has requested to be a Designated Reporting Member. The Association may also designate any member that effects a substantial number of over-the-counter transactions in eligible securities. A list of Designated Reporting Members is attached to this Schedule.

(d) "Eligible securities" means all common stocks, preferred stocks, long-term warrants, and rights entitling the holder to acquire an eligible security, listed or admitted to unlisted trading privileges on the American Stock Exchange or the New York Stock Exchange, and securities listed on regional stock exchanges, which substantially meet the original listing requirements of the New York Stock Exchange or the American Stock Exchange. A list of eligible securities listed on regional stock exchanges is attached to this Schedule.

(e) "Non-Designated Reporting Member" means all members of the Association which are not Designated Reporting Members.

Section 2—Transaction Reporting

(1) Designated Reporting Members shall transmit through the NASDAQ Transaction Reporting System, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape. Transactions not reported within 90 seconds after execution shall be designated as late.

(2) Non-Designated Reporting Members shall transmit through the NASDAQ Transactions Reporting System, or if such System is unavailable, via Telex, TWX or telephone to the NASDAQ Department in New York City, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape unless all of the following criteria are met:

(A) The aggregate number of shares of eligible securities which the member executed and is required to report does not exceed 1,000 shares in any one trading day; and

(B) The total dollar amount of shares of eligible securities which the member executed and is required to report does not exceed $25,000 in any one trading day; and

(C) The member's transactions in eligible securities have not exceeded the limits of (A) or (B) above on five or more of the previous ten trading days.

Transactions not reported within 90 seconds after execution shall be designated as late. If the member has reason to believe its transactions in a given day will exceed the above limits, it shall report all transactions in eligible securities within 90 seconds after execution; in addition, if the member exceeds the above limits at any time during the trading day, it shall immediately report and designate as late any unreported transactions in eligible securities executed earlier that day.

(3) Non-Designated Reporting Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities which are not required by paragraph (2) to be reported within 90 seconds after execution.

(4) All Members shall report weekly to the NASDAQ Department in New York City, on Form T, last sale reports of transactions in eligible securities executed outside the trading hours of the Consolidated Tape.

(5) All trade tickets for transactions in eligible securities shall be time-stamped at the time of execution.

(b) Which Party Reports Transaction

(1) Transactions executed on an exchange are reported by the exchange and shall not be reported by members.

(2) In transactions between two Designated Reported Members, only the member representing the sell side shall report.

(3) In transactions between a Designated Reporting Member and a Non-Designated Reporting Member, only the Designated Reporting Member shall report.

(4) In transactions between two Non-Designated Reporting Members, only the member representing the sell side shall report.

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Stock symbol of the eligible security;

(2) Number of shares (odd lots shall not be reported);

(3) Price of the transaction as required by paragraph (d) below.

(d) Procedures for Reporting Price and Volume

Members which are required to report pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in eligible securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

Example: SELL as agent 100 shares at 40 plus a commission of $12.50; REPORT 100 shares at 40.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

Example: SELL as agent 100 shares at 40 plus a commission of $12.50; BUY as agent 100 shares at 40 less a commission of $12.50; REPORT 100 shares at 40.

(3) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions which are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), accessibility to market centers publishing bids and offers with size, the cost of execution and the

expenses involved in clearing the transaction.

Example: BUY as principal 100 shares from another member at 40 (no mark-down included). REPORT 100 shares at 40.

Example: BUY as principal 100 shares from a customer at 39¾, which includes a ⅛ mark-down from prevailing market of 39⅞; REPORT 100 shares at 39⅞.

Example: SELL as principal 100 shares to a customer at 40⅛, which includes a ⅛ mark-up from the prevailing market of 40; REPORT 100 shares at 40.

Exception:

A "riskless" principal transaction in which a member that is not a market maker in the security, after having received from a customer an order to buy, purchases the security as principal from another member of customer to satisfy the order to buy or, after having received from a customer an order to sell, sells the security as principal to another member of customer to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down. A riskless principal transaction in which a member purchases or sells the security on an exchange to satisfy a customer's order will be reported by the exchange and the member shall not report.

Example: BUY as principal 100 shares from another member at 40 to fill an existing order; SELL as principal 100 shares to a customer at 40 plus mark-up of $12.50; REPORT 100 shares at 40.

Example: BUY as principal 100 shares on an exchange at 40 to fill an existing order; SELL as principal 100 shares to a customer at 40 plus a mark-up of $12.50. DO NOT REPORT (will be reported by exchange)

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported for inclusion on the Consolidated Tape:

(1) transactions executed on an exchange;

(2) odd-lot transactions;

(3) transactions which are part of a primary distribution by an issuer or of a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution effected off the floor of an exchange;

(4) transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(5) transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, e.g., to enable the seller to make a gift;

(6) the acquisition of securities by a member as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange;

(7) purchases of securities off the floor of an exchange pursuant to a tender offer; and

(8) purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a preestablished consideration unrelated to the current market.

(Existing Sections 2, 3 and 4 of Schedule G are to be renumbered as Sections 3, 4, and 5 respectively.)

Procedures of Self-Regulatory Organization

The present revision of Schedule G was developed by the Association's National Market System Trading Committee and approved by the Association's Board of Governors on July 11, 1980, pursuant to Article XVIII of the By-Laws.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

References in the introductory paragraph to SEC Rule 17a–15 have been changed to reflect that the rule was amended and redesignated as Rule 11Aa3–1 in Release No. 34–16589 (Feb. 19, 1980).

Paragraphs (c) and (d) of Section 1 of Schedule G have been amended to incorporate the revisions to existing Schedule G approved by the Commission in File No. SR–NASD–80–3 on July 7, 1980. Paragraph (c)(3) refers members to paragraph (d) for the definition of "price," and paragraph (d)(3) provides that, for principal transactions, the price reported shall exclude any mark-up, mark-down, or service charge. Examples have been added to this paragraph to illustrate the new provision. In addition, former exception (i) to this paragraph has been deleted as unnecessary in light of the present amendments.

Former exception (ii) to paragraph (d)(3) has been amended to clarify that when one side of a riskless principal transaction is executed on an exchange, the non-exchange firm does not report at all. This change was adopted following discussions of the matter with the Commission's staff. Finally, in response to comments by the staff and others, the Association has decided to delete former exception (iii) dealing with block transactions.

Basis Under the Act for Proposed Rule Change

No change.

Comments Received From Members, Participants, or Others on Proposed Rule Change

No change.

Burden on Competition

The Association believes the proposed rule change does not impose a burden on competition.

The requirement that "riskless" transactions be reported as one transaction, exclusive of any mark-up or mark-down, imposes no burden on members which are already required by SEC Rule 10b–10 to disclose such charges on their customer confirmations.

Finally, the expanded exception to the real-time reporting requirements will be a benefit, not a burden, to members which effect only occasional transactions in eligible securities.

For these reasons, the Association has determined that the proposed rule change does not impose a burden on competition.

Within 35 days of the date of publication of this notice in the **Federal Register**, (November 28, 1980) or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 14, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 17, 1980.

[FR Doc. 80-33167 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17230; File No. SR-NYSE-80-39]

Self-Regulatory Organization; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 73s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 6, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would increase from $35,000 to $50,000 annually, the dues payable to the exchange by members who are entitled to enter physically upon the trading floor of the exchange and to have facilities thereon for the execution of orders, pursuant to the provisions of Article IX, Section 1(b) of the exchange's constitution ("physical access members") and increase from $13,500 to $18,500 annually, the dues payable to the exchange by members who are entitled to maintain electronic or telephonic access pursuant to the provisions of Article IX, Section 1(c) of the constititution ("electronic access members").

Exchange's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to increase the yearly dues of NYSE physical access and electronic access annual members. The increased dues would apply to annual members who apply who become such after the effectiveness of this rule change (October 6, 1980); but would not apply to existing annual members except upon renewal of their memberships.

The methodology used to arrive at the proposed annual dues of $50,000 for physical access members is the same as that which was used in 1977 to arrive at the original amount of $25,000 and in October 1979 when annual dues were increased to the present level of $35,000. Dues are computed by applying member firms' median pre-tax rate of return on equity capital for the last five years (28.9%) to the current $168,900 NYSE replacement value per membership, and adding the current $1,500 membership dues and the $1,800 fee assessed to each member entering on the trading floor.[1] The NYSE determined to round the total of $52,100 to an even $50,000.

The methodology used to arrive at the proposed annual dues of $18,500 for electronic access members is the same as that which was used in 1977 to arrive at the original amount of $13,500.[2] The amount was—and the proposed new amount is—based upon the regulatory costs to the exchange per electronic or telephonic access member added to the current yearly dues of $1,500.

Exchange's Statement of Basis Under the Act for Proposed Rule Change

The proposed rule change relates to Section 6(b)(4) of the Act which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members using its facilities.[3]

Comments Received From Members, Participants, or Others on Proposed Rule Change

The Exchange has received one written comment from a physical access member who opposes the proposed rule change on the following grounds. First, adjusting dues annually is too frequent; second, the magnitude of the increases is too large (i.e., 40% in 1979, 43% in 1980); and finanlly, it is not equitable to tie annual membership dues to seat prices and lease rates in light of certain differences between physical access membership and leasing a seat.

Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number referenced in the caption above and should be submitted on or before November 14, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33168 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

---

[1] The Commission notes that to the extent that the current increase in physical access membership dues is the result of increased member firms' profits (measured by return on capital) and equity membership replacement value, it anticipates that any future similar decreases would result in a lowering of physical access dues.

[2] This is the first time the exchange has proposed to change the amount of electronic access dues.

[3] The Commission stated in the original order approving NYSE annual membership (Securities Exchange Act Release No. 14535, March 7, 1978), that "... the dues to be assessed upon annual members appear, on their face, to be reasonable and equitably allocated in accordance with Section 6(b)(4) of the Act. The Commission believes that the ultimate test of 'reasonableness', however, will be provided by response of the market. Because alternative means of membership in, and access to, the NYSE exist ... the Commission does not believe it necessary to subject these annual membership dues to a more rigorous *a priori* determination of reasonableness as might otherwise be called for."

[Release No. 17227; SR-Phlx-80-18]

Philadelphia Stock Exchange; Order Approving Proposed Rule Change

October 17, 1980.

On August 8, 1980, the Philadelphia Stock Exchange, Inc. ("Phlx") 17th Street and Stock Exchange Place, Philadelphia, PA 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend Articles IV, V, VIII, X, XI and XVIII of the Phlx By-laws. The amendments, among other things, vest the authority for disciplinary actions, including enforcement, prosecution and the imposition of sanctions, in the Business Conduct Committee and a newly created Hearing Committee. The amendments also would abolish the Member Firms Committee, establish a Marketing Committee as a standing committee, and change the size and composition of standing committees.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17090, August 25, 1980) and by publication in the **Federal Register** (45 FR 57804, August 29, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, the proposed amendments would enhance the exchange's ability to comply with its statutory obligations to enforce compliance with the Act, the rules and regulations thereunder and its own rules; to discipline its members and their associated persons for rule violations in an appropriate manner with fitting sanctions; and to provide fair procedures for discipline in accordance with Section 6(b) (1), (6) and (7), respectively.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33169 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11404; 812-4730]

The Cash Management Trust of America; Application Under the Investment Company Act of 1940

October 17, 1980.

Notice of filing of application for an order pursuant to section 6(c) of the Investment Company Act of 1940 granting exemptions from the provisions of section 2(a)(41) of the act and rules 2a-4 and 22c-1 thereunder.

Notice is hereby given that The Cash Management Trust of America, 333 South Hope Street, Los Angeles, California 90071, ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on September 5, 1980, and amendments thereto on September 19, 1980, and September 22, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to compute its net asset value per share according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a business trust organized and existing under the laws of the State of Massachussetts. Applicant has registered under the Act (File No. 811-2380) and its securities are registered under the Securities Act of 1933 (File No. 2-47940).

Applicant states that it intends to operate as a "money market" fund. Applicant's investment objective is to provide current income to its investors while preserving capital and maintaining liquidity. To realize this objective Applicant invests in certain high quality money market instruments consisting of (i) securities of the United States government, its agencies and instrumentalities; (ii) obligations of commercial banks having total assets in excess of $1 billion based on latest published reports; (iii) obligations of savings associations having assets in excess of $1 billion and which are members of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; (iv) corporate notes with maturities up to nine months at the time of issuance which at the time of purchase are either rated in one of the two highest categories by Standard & Poor's Corporation or Moody's Investors Service, Inc. or, with respect to not more than 15% of the trust's total assets after such purchase, other commercial paper deemed by the trustees on the basis of the issuer's credit worthiness to be of comparable quality; (v) other investment grade corporate obligations that mature, or that may be redeemed by the trust, in one year or less and (vi) repurchase agreements with selected banks and securities dealers, provided that the trust does not enter any repurchase agreement if, as a result, more than 10% of the trust's total assets would be subject to repurchase agreements maturing in more than seven days.

According to the application, Capital Research & Management Company, an investment adviser to fifteen mutual funds and registered under the Investment Advisers Act of 1940, will act as Applicant's investment adviser. Applicant further states that the minimum initial investment in its shares is $5,000. Applicant states that from the inception of the public offering of its shares in November, 1976, it has maintained the public offering price of its shares at $1.00 per share.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instuments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or

classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit it to use the amortized cost method of valuing portfolio securities. In support of the relief requested Applicant represents that use of the amortized cost method of valuing portfolio securities would provide the necessary flexibility in managing Applicant's securities portfolio to deal with fluctuating interest rate levels, while at the same time maintaining the offering price of Applicant's shares at $1.00 per share. Applicant also states that such valuation would enable it to attract as investors corporate investors and bank trust departments which require stability of principal and a steady flow of investment income. Finally, Applicant states that unless it is allowed to use the amortized cost method of valuation it would be at a competitive disadvantage as compared with other money market funds. Therefore, Applicant submits that granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant has further agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In overseeing Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of each applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will (a) refrain from purchasing any instrument with a remaining maturity of greater than one year, and (b) maintain a dollar-weighted average portfolio maturity which does not exceed 120 days.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than November 10, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33163 Filed 10-23-80; 8:45 a.m.]

BILLING CODE 8010-01-M

[Release No. 21748; 70-5513]

The Columbia Gas System, Inc., and Columbia Alaskan Gas Transmission Corp.; Application Under the Public Utility Holding Company Act of 1935

October 20, 1980

Notice of proposal of subsidiary to enter into partnership agreement relating to construction and ownership of natural gas pipeline and to issue and sell common stock and notes to parent in connection therewith.

Notice is hereby given that Columbia Gas System, Inc. ("Columbia"), a registered holding company, and Columbia Alaskan Gas Transmission Corporation ("Columbia Alaskan"), 20 Montchanin Road Wilmington, Delaware 19807, a non-utility gas transportation subsidiary of Columbia, have filed post-effective amendments to a previously amended application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10 and 12 of the Act and Rules 43, 45 and 51 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, as amended by said post-effective amendments, which is summarized below, for a complete statement of the proposed transactions.

Columbian Alaskan is seeking authorization to become a partner under the Alaskan Northwest Agreement, as amended, ("Northwest Agreement"), which is summarized below, and to issue common stock and notes to finance its participation in the Northwest Agreement.

By order in this proceeding dated August 16, 1974 (HCAR No. 18534), Columbia was authorized, among other things, to participate in the Northern Border Project, a project which was one step in a larger overall project ("Arctic Gas Project") designed to deliver gas from Prudhoe Bay, Alaska to the lower 48 states. The Northern Border Project was organized to constitute and operate a natural gas pipeline which would represent the second leg of the Arctic Gas Project, would commence at Monchy, Saskatchawan and would extend through the United States to a terminal near Delmont, Pennsylvania. The August 16, 1974 order authorized the acquisition by Columbia of up to 40,000 shares of the common stock, $25 par value per share, of Columbia Alaskan Gas Transmission Corporation ("Columbia Alaskan"). A total of 8,000 shares were issued and purchased as authorized for the purpose of financing Columbia Alaskan's proportionate share of the fees paid by the Northern Border Project in connection with the Federal Energy Regulatory Commission ("FERC") filing. Subsequently, Columbia Gas Transmission Corporation advanced to Columbia Alaskan, in support of this long-term gas supply project, funds equal to these expenses. Columbia Alaskan was then a newly organized corporation with no other issued securities or outstanding capital. Columbia's interest in the Northern Border Partnership would be represented by the participation of its subsidiary, Columbia Alaskan, in the Northern Border Project pursuant to the terms of the Northern Border Pipeline Company General Partnership Agreement dated as of April 15, 1974 ("Northern Border Partnership Agreement"). By further order dated November 22, 1978 (HCAR No. 20789), Columbia Alaskan was permitted to participate in a Successor Partnership Agreement, effective as of March 9, 1978, which replaced the Northern Border Partnership Agreement previously authorized in HCAR No. 18534. The Successor Partnership Agreement dealt with Columbia Alaskan's decision not to participate in the "perbuild" of the Northern Border Project but to retain its option to join the project if and when pipeline facilities were built to transport gas from Alaska to Canada.

The Arctic Gas Project would also have involved the representation of Columbia's interest by the participation of its subsidiary, Columbia Alaskan, in the Alaskan Arctic Gas Pipeline Company General Partnership Agreement ("Alaskan Agreement") under which gas would be transported over the first leg of the Arctic Gas Project extending from The North Slope of Alaska to the Alaskan-Canadian border.

Columbia Alaskan's participation in the Alaskan Agreement was authorized by order in this proceeding dated June 22, 1977 (HCAR No. 20086). Columbia Alaskan's contributions to the partnership pursuant to the Alaskan Agreement would be made from the proceeds from the sale of common stock to Columbia authorized in the order of August 16, 1974 (HCAR No. 18534).

The Arctic Gas Project had filed in 1974 for the necessary regulatory approvals in the United States and Canada and had been supported by Columbia. A competing application was filed by El Paso Alaska Company with the then Federal Power Commission ("FPC"). That project provided for the delivery of Prudhoe Bay gas to the lower 48 states via pipeline and LNG tankers. In 1976, Alcan Pipeline Company and Northwest Pipeline Company filed a third competing application with the FPC for a certificate to transport Alaskan Gas ("Alcan project"). The Alcan Project, subsequently modified, provided for a pipeline following existing utility corridors from Prudoe Bay to Canada and through to the United States markets.

On October 22, 1976, Congress passed the Alaska Natural Gas Transportation Act of 1976 ("ANGTA"), 15 U.S.C. 719, *et seq.*, which provided that the President

of the United States and the Congress would make the final decision on the selection of a route to transport Alaskan gas. Canada's National Energy Board on July 4, 1977, made its decision supporting the Alcan proposal. The Alcan Project was selected over the Arctic Gas Project through the procedures set forth in ANGTA.

On January 31, 1978, the Alcan sponsors formed the Alaskan Northwest Natural Gas Transportation Company, a general partnership ("Northwest Partnership"), for the purpose of constructing and operating the Alaskan segment of the pipeline. At that time there were six partners: Northwest Alaskan Pipeline Company, Northern Arctic Gas Company, Pan Alaskan Gas Company, Natural Gas Corporation of California, Pacific Interstate Transmission Company and United Alaska Fuels Corporation, all of which entered into an Alaskan Northwest Agreement ("Northwest Agreement") which governs the Partnership. On August 1, 1980, FERC, the FPC's successor, noticed the filing of an amendment to the Northwest Agreement which admitted American Natural Alaskan Company ("American") to the Northwest Partnership. The notice of amendment stated that the Northwest Partnership was willing to provide other interested persons with the opportunity to join the Northwest Partnership on the same terms as those accepted by American and that the offer would remain open for a period of thirty days from the date of the FERC notice. During the thirty day period, the Northwest Partnership would waive the requirement of a provision of the Northwest Agreement which requires an unequal allocation of all net profits and net losses and credits to the Northwest Partnership for persons who join the Northwest Partnership after certain dates set forth therein.

In view of the substantial regulatory progress towards commencement of construction of the project, Columbia Alaskan's continued need for the attachment of Alaskan reserves to its system and the intent of the Northwest Partnership to permit persons to join the Northwest Partnership on more favorable terms and conditions during the thirty day period following August 1, 1980, Columbia Alaskan has decided that it would be appropriate to request to become a partner in the Northwest Partnership created under the Northwest Agreement. At a meeting held on August 22, 1980, Columbia Alaskan's request to join the Northwest Partnership was accepted. The Northwest Partnership would be entered into in lieu of the Alaskan Partnership previously authorized (HCAR No. 20086) by this Commission and the Alaskan Agreement would be dissolved. Pursuant to the Northwest Agreement, Columbia Alaskan will be obligated to contribute its pro rata share of the cash contributions already made by the original partners. It will be allowed to do so gradually by contributing twice as much as the first six partners contribute with each future cash call until its contributions equal those of the first six partners. At the present time, each of the original six partners have made capital contributions of $16 million for planning and design of the project. It is estimated that Columbia Alaskan will have equalized its partnership contribution by December 1981.

In the application filed with FERC for the final certificate for the Alaskan segment, it was estimated that the Alaskan segment would cost $7.9 billion. It is planned that the partners will contribute equity equal to 25% of the project's financing. The balance of the necessary funding will be acquired through the issuance of debt by the Northwest Partnership. At present, the number of partners and companies which have indicated an intent to become partners totals eleven. Therefore, Columbia Alaskan's contribution to the Northwest Partnership required to finance construction is currently estimated to be approximately $180 million ($7.9 billion X 25% X 1/11). The amount of Columbia Alaskan's required contribution may be decreased if additional partners join in the Northwest Partnership or if Northwest Alaskan Pipeline Company or its affiliate elects to hold a greater share in the Northwest Partnership, or it may be increased if the cost of the project escalates.

To finance its participation in the Northeast Partnership, authorization is hereby sought for Columbia Alaskan to issue and Columbia to purchase common stock, $25 per value and Installment Promissory Notes ("Installment Notes") or Floating Rate Term Notes in an unlimited amount. As stated above, while the total amount of the contribution required of Columbia Alaskan is currently estimated at $180 million, the ultimate amount of the contribution is subject to a number of variables and cannot be definitively determined at this time. No amount is designated in the Northwest Agreement as a limit for any partner's contribution. The ratio of stock and debt to total capitalization will be determined based upon the ability of Columbia Alaskan to service debt. Only equity may be issued

initially or debt may be issued prior to the commencement of operations of the pipeline deferred until after operations have commenced. Ultimately, it is anticipated that a 50%–50% debt equity ratio will result.

The Installment Notes will be unsecured, unregistered and dated the date of their issue. The principal amounts will be due in twenty equal annual installments on September 30 of each year from 1987 to 2006, inclusive. Interest will accrue from the date of issuance and will be paid semiannually on September 30 and March 31 on the unpaid principal thereof. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures prior to the issuance of said Installment Notes, decreased by an amount necessary in order that the interest rate be a multiple of 1/10th of 1%. Columbia sold $100,000,000 principal amount of debentures on August 13, 1980 (HCAR No. 21631), at an effective cost of money of 12.9%. Subject to market conditions, Columbia anticipates selling additional long term securities after 1980. Installment Notes to be issued subsequent to Columbia's future financings would carry an interest rate related to the last such sale of securities prior to the issuance of said Installment Notes.

Installment Notes will be issued unless Columbia has issued notes under the Revolving Credit and Term Loan Agreement dated as of April 1, 1980 ("Revolving Credit Agreement") since the last issuance of debentures. If Columbia has issued said notes, Columbia Alaskan will issue Floating Rate Term Notes, due March 31, 1987. This procedure has been authorized in connection with Columbia's general financing program (HCAR No. 21593). Such Floating Rate Term Notes will be issued by Columbia Alaskan in lieu of Installment Notes, will be dated the date of their issuance and will bear interest at a rate equal to the effective cost of money under the Revolving Credit Agreement. Any such Floating Rate Term Notes will be refinanced upon maturity.

As a result of its participation in the Northwest Partnership, Columbia Alaskan will earn or have allocated to it investment tax credits allowable under Section 38 of the Internal Revenue Code of 1954 as amended with respect to the investment in the Alaskan segment of the pipeline. In addition, Columbia Alaskan may sustain taxable losses during the construction period and early operation of such segment of the pipeline. Because Columbia Alaskan will be a member of the affiliated group of corporations ("System Affiliated Group") for which Columbia files consolidated federal income tax returns, it is requested that this Commission authorize the following partial exemption from Section 12(b) of the Act and Rule 45(b)(6) promulgated thereunder, as modified by orders HCAR No. 15021 dated February 27, 1964 and HCAR No. 18000 dated June 12, 1973: For purposes of determining the liability to be allocated to each member of the System Affiliated Group, the total amount of liability to be so allocated shall be computed without regard to (i) any portion of the consolidated investment tax credit earned by Columbia Alaskan or allocable to it as a result of its participation in the Northwest Partnership and (ii) any reduction in consolidated taxable income attributable to a separate taxable loss of Columbia Alaskan including any such loss resulting from its participation in the Northwest Partnership. The total amount of liability as computed above shall be allocated to the members of the System Affiliated Group. Any excess of the total amount of liability so allocated over the actual consolidated tax liability shall be remitted in cash by Columbia to Columbia Alaskan in order that such excess may be utilized by Columbia Alaskan in financing its share of the project. It is stated that in no event shall any member's allocated portion of the total amount of liability as computed above exceed the amount of tax of such member based upon a separate return computed as if such member had always filed a separate return.

Consistent with the separate return limitations of Rule 45(b)(6) for future years when Columbia Alaskan will have separate taxable income, Columbia Alaskan shall not be entitled to any reduction in its allocated portion of actual consolidated tax liability for any such future year to the extent that such reduction is attributable to an investment tax credit or net operating loss carryovers and carrybacks and represents amounts previously paid to it by Columbia as provided hereinabove.

The fees and expenses to be incurred in connection with the proposed transactions will not exceed $6,000. No state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 17, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues

of fact or law raised by said application-declaration as amended by said post-effective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendments or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33164 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11407; 811-2572]

Wednesday Alpha Corp.; Application Under the Investment Company Act of 1940

October 17, 1980.

Notice of filing of application pursuant to section 8(f) of the act for an order declaring that applicant has ceased to be an investment company.

Notice is hereby given that Wednesday Alpha Corporation ("Applicant"), 203 Park Building, Cleveland, Ohio 44113, registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified, management investment company, filed an application on August 15, 1980, and an amendment thereto on September 30, 1980, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of Ohio, registered under the Act on May 19, 1975, and filed a registration statement on Form S-4 under the Securities Act of 1933 for the public offer and sale of shares of its common stock on May 28, 1975. Applicant states that this registration statement was declared effective on June 3, 1977, and that an initial public offering was commenced as of that date.

Applicant further states that on February 20, 1980, a special meeting of shareholders of the Applicant was held at which a plan of liquidation and dissolution of the Applicant was adopted. Applicant states that on March 24, 1980, the Board of Directors of the Applicant authorized payment to shareholders of a liquidating distribution in an amount equal to the net asset value per share of the Applicant. Applicant states that the plan of liquidation was implemented on April 30, 1980. Applicant further states that it has not within the last eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are shareholders of Applicant. Applicant represents that as of August 1, 1980, all the shareholders of the Applicant had surrendered their shares for redemption at net asset value, and had received a liquidating distribution of $4.23 per share.

Applicant states that it currently has assets in the amount of $26,764.79, which has been retained by Applicant from amounts otherwise payable as a liquidating distribution to its investment adviser, The Wednesday Corporation ("Adviser") for shares of Applicant held by the Adviser. Applicant further states that this amount of cash has been retained pursuant to an agreement between the Adviser and the Applicant which provides that the Adviser will pay certain expenses of the Applicant including, without limitation, professional fees, filing fees and other expenses not including, however, interest, taxes and extraordinary expenses beyond the control of the Adviser. Applicant states that it has incurred expenses estimated not to exceed $10,000 and will be liable for certain other expenses as yet unascertainable in connection with its liquidation, all of such expenses being subject to reimbursement by the Adviser under the above agreement. In addition, should the liquidating distribution payable to the Adviser be insufficient to pay the Applicant's expenses, the

Adviser will be liable for any remaining expenses.

Applicant represents that it is a party plaintiff in *The Wednesday Alpha Corporation, et al.* v. *Forrester & Kovanda, et al.*, a law suit filed against the Applicant's former attorney and his law firm and Applicant's accountants. Applicant further represents that it is being represented in this lawsuit on a contingent fee basis and that it will not be responsible for any costs of such lawsuit unless there is a judgment in favor of Applicant. Applicant also represents that if there is a net recovery in this lawsuit, the shareholders of record of Applicant as of the date of liquidation will receive their pro-rata share directly from Applicant's counsel, after deducting Applicant's pro-rata share of the costs of the lawsuit. Applicant further represents that it has ceased all business activities and does not propose to engage in any business activities other than those activities necessary for the final winding up of its affairs. Finally, Applicant states that it has applied for certificates necessary for filing a Certificate of Dissolution with the Ohio Secretary of State prior to December 31, 1980.

Notice is further given that any interested person may, not later than November 12, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33165 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11405; 811-2845]

Tax Deferred Fund, Inc.; Application Under the Investment Company Act of 1940

October 17, 1980

Notice of filing of application pursuant to section 8(f) of the investment company act of 1940 for an order of the commission declaring that applicant has ceased to be an investment company.

Notice is hereby given that Tax Deferred Fund, Inc. ("Applicant"), 660 Madison Avenue, New York, New York 10021, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 25, 1979, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant, a Maryland corporation, registered under the Act on June 14, 1978. Applicant has not filed a registration statement under the Securities Act of 1933, and thus has never made a public offering of its securities. The application further states that Applicant does not propose to make a public offering of securities or engage in any business activities other than those necessary for the winding-up of its affairs. Applicant currently has no security-holders, no assets, no debts, and is not a party to any litigation or administrative proceedings. In addition, Applicant within the last eighteen months has not for any reason transferred any of its assets to a separate trust, the beneficiaries of which were or are security-holders of Applicant. Finally, Applicant states that its legal existence under Maryland law is expected to terminate in the future because of non-payment of state taxes.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon

application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 11, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing, upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-33166 Filed 10-23-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 728]

Requests for Asylum

The following guidelines are intended to supplement and modify Public Notice 351 (37 FR 3447, February 16, 1972), with respect to notification to the Department of State of actual or imminent requests for asylum. Whereas Public Notice 351 required immediate notification of all such requests, the following guidelines establish criteria for distinguishing requests which call for immediate notification and those requests which need only be brought to the attention of the Immigration and Naturalization Service.

Guidelines for Notification to the U.S. Department of State of Requests for Asylum

The Department of State wishes to be notified immediately of any request (or imminent request) for asylum which is politically sensitive or involves the possibility of forcible repatriation. In particular, the Department of State should be informed immediately of a request for asylum from:

(1) Any national of the Soviet Union;

(2) Any national of East Germany, Romania, Poland, Hungary, Czechoslovakia, Bulgaria, Mongolia, Cuba, Albania, the People's Republic of China, North Korea, Vietnam, Laos, or Kampuchea, who is present in the United States as part of an official visit, formal cultural or athletic exchange, exchange student program or state-owned business or enterprise activity, or who is in transit through the United States in such capacity;

(3) Any foreign diplomat, foreign consular officer, or foreign official, regardless of the country;

(4) Any other alien who asserts there is a serious threat of forcible repatriation to himself or to his family.

In addition, the Department of State should be informed immediately of any request for asylum which for other reasons presents special problems calling for the Department's prompt attention. Other requests, not calling for such attention by the Department of State, should be brought to the attention of the local district director of the Immigration and Naturalization Service.

United States agencies or other authorities receiving a request for asylum meriting the Department of State's prompt attention (or knowing that such a request is immnent) should immediately notify the Department of State's Operations Officer at the Department of State's Operations Center in Washington, D.C. (Telephone: 202-632-1512.)

Dated: October 1, 1980.

For the Secretary of State.

Ben H. Read,

Under Secretary for Management.

[FR Doc. 80-33193 Filed 10-23-80; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

U.S. Customs Service

[T.D. 80-253]

Country of Origin Marking for Merchandise Imported From the People's Republic of China and Taiwan

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

ACTION: Notice of Customs Service decision.

SUMMARY: A recent Customs Service decision has distinguished between country of origin marking for merchandise imported from (1) the People's Republic of China and (2) Taiwan. In the decision, the Customs Service held that merchandise from the People's Republic of China may be marked to show the country of origin by use of the words "China" or "The People's Republic of China" or "People's Republic of China." However, articles manufactured or produced in Taiwan must bear the official country of origin markings "Taiwan" or "Made in Taiwan.".

With respect to articles from Taiwan, the words "Republic of China" or the initials "ROC" do not denominate a government or state recognized by the United States. However, if these designations on articles from Taiwan are preceded by the official country of origin markings "Taiwan" or "Made in Taiwan," such articles will not be denied admission into the United States.

DATE: The Customs Service decision is dated July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Darrell D. Kast, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C., 20229 (202-566-5765).

Dated: October 16, 1980.

Salvatore E. Caramagno,

Acting Director, Office of Regulations and Rulings

[FR Doc. 80-33199 Filed 10-23-80; 8:45 a.m.]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 208
Friday, October 24, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Deposit Insurance Corporation	2
Federal Home Loan Bank Board	3, 4
Federal Maritime Commission	5
Federal Reserve System	6, 7, 8
International Trade Commission	9
National Council on the Handicapped	10
Securities and Exchange Commission	11

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 28, 1980.

PLACE: Commission Conference Room, No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 80-7-FOIA-397, concerning a request for documents regarding criteria used in deciding whether to institute a Commissioner's charge.
2. Freedom of Information Act Appeal No. 80-8-FOIA-441, concerning a request by a charging party for access to case files and a work-sharing agreement.
3. Freedom of Information Act Appeal No. 80-9-FOIA-2-NO, concerning a request for certain documents contained in two charge files.
4. Final Regulations Amending Section 1601.21 (b), (d) and 1601.28 of the Commission Procedural Regulations 29 CFR Part 1601.
5. Technical Amendments to Final Guidelines on Discrimination Because of Religion.
6. Report on Commission Operation by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued October 21, 1980.

[S-1955-80 Filed 10-22-80; 1:03 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Tuesday, October 21, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the liquidation of an asset acquired by the Corporation from United States National Bank, San Diego, California (Case No. 44,535-NR).

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: October 21, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1953-80 Filed 10-22-80; 11:17 am]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 45, issue No. 204, page No. 69340, published: Monday, October 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, October 23, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Branch Office Application—First Federal Savings & Loan Association of Lake Worth, Lake Worth, Florida.
Application for Bank Membership and Insurance of Accounts—Superior Savings & Loan Association, Los Angeles, California.
Treatment of Goodwill Acquired in Mergers.
Alternative Mortgage Instrument Amendments.
Technical Amendment Regarding NOW Accounts.
Amendments Regarding Interest on NOW Accounts, Giveaways, Return on Savings Accounts and Finders Fees.

No. 410, October 22, 1980.

[S-1951-80 Filed 10-22-80; 11:15 am]

BILLING CODE 6720-01-M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 30, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Branch office application—Fidelity Federal Savings & Loan Association, Glendale, California.
Amendment of charter, name change application—First Federal Savings & Loan Association of Phoenix, Phoenix, Arizona.
Increase in accounts of an insurable type (mergers); cancellation of membership and insurance and transfer of stock—Van Buren Savings & Loan Association, South Haven, Michigan *and* Lowell Savings & Loan Association, Lowell, Michigan *into* First Savings & Loan Association of Saginaw, Saginaw, Michigan.
Application for bank membership—Southold Savings Bank, Southold, New York.
Merger application—Franklin Federal Savings & Loan Association, Columbus, Ohio *into* Ohio Federal Savings & Loan Association of Columbus, Columbus, Ohio.
Preliminary application for conversion into a Federal Mutual Association—Oneonta Savings & Loan Association, Oneonta, New York.

Holding company acquisition and merger; increase of accounts of an insurable type—Financial Corporation of Santa Barbara, Santa Barbara, California *to acquire* First Western Savings & Loan Association, Danville, California *and merge said association with* Santa Barbara Savings & Loan Association, Santa Barbara, California.

Debt application—Citizens Savings Financial Corporation, Miami, Florida.

No. 409, October 22, 1980.

[S-1952-80 Filed 10-22-80; 11:16 am]

BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., October 29, 1980.

PLACE: Hearing Room One, 1100 L Street N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on Notation Items disposed of during August 1980.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during August 1980.
3. Report of the Secretary on Applications for Admission to Practice approved during August 1980 pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during August 1980.
5. Docket No. 80-19: Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies—Review of comments submitted in response to notice of proposed rulemaking.
6. Informal Docket No. 720(I): 3M v. Hapag Lloyd—Review of Settlement Officer's Decision.
7. Special Docket No. 701: Application of Trans Freight Lines, Inc. for the Benefit of Southern Pacific Marine Transport—Review of Initial Decision.

Portion closed to the public:

1. Docket Nos. 78-15, et al.: United States Lines, Inc. et al. v. Mayland Port Administration—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1949-80 Filed 10-22-80; 10:37 am]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM. (Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, October 29, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed adjustments to benefits for Federal Reserve Bank officers.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board. (202) 452-3204.

Dated: October 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1947-80 Filed 10-21-80; 4:29 pm]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM.

Board of Governors

TIME AND DATE: 9 a.m., Wednesday, October 22, 1980.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Further deferral of reserve and reporting requirements for small depository institutions and easing the reporting burden for small institutions.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1948-80 Filed 10-21-80; 4:34 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM.

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 69086, October 17, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, October 23, 1980.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting: 1. Request to permit nonmember institutions to have clearing accounts before pricing for Federal Reserve Bank services is implemented.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: October 21, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1954-80 Filed 10-22-80; 12:14 pm]

BILLING CODE 6210-01-M

9

[USITC SE-80-50]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, November 6, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Complaint on paint sprayers (Docket No. 683).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1956-80 Filed 10-22-80; 2:01 pm]

BILLING CODE 7020-02-M

10

NATIONAL COUNCIL ON THE HANDICAPPED.

TIME AND DATE: 9 a.m.-5 p.m., Thursday, November 13, 1980 and 9 a.m.-4 p.m., Friday, November 14, 1980.

PLACE: Disabled American Veterans Building, 807 Maine Avenue SW., Washington, D.C. 20024.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Swearing in of Members of the National Council on the Handicapped.
2. Discussion of Council mandate with respect to the National Institute of Handicapped Research (NIHR), the Rehabilitation Services Administration (RSA), and all policies, programs, and activities concerning handicapped individuals conducted or assisted by Federal departments and agencies.
3. Orientation to NIHR and RSA.
4. Plan operating procedures and agenda for future meetings and activities of the National Council.

CONTACT PERSON FOR MORE INFORMATION: Carol Berman, National Council on the Handicapped, 202-245-3498.

Carol Berman,

Executive Secretary.

[S-1998-80 Filed 10-22-80; 2:11 pm]

BILLING CODE 4000-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 27, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, October 28, 1980, at 10:00 a.m. and on Wednesday, October 29, 1980, following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 28, 1980, at 10:00 a.m., will be:

Formal orders of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Regulatory matter regarding financial institution.
Chapter X proceeding.
Freedom of Information Act appeals.
Litigation matters.

The subject matter of the closed meeting scheduled for Wednesday, October 29, 1980, following the 10:00 a.m. open meeting, will be:

Consideration of *amicus* participation.

The subject matter of the open meeting scheduled for Wednesday, October 29, 1980, at 10:00 a.m., will be:

1. Consideration of a request by Mr. Carl Olson that the Commission review the Division of Corporation Finance's determination concerning a certain proposal he submitted to Litton Industries. For further information, please contact William E. Morley or Michael R. Kargula at (202) 272–2573.

2. Consideration of whether to adopt Rule 16 under the Public Utility Holding Company Act of 1935 (the "Act"), that would exempt non-utility joint ventures engaged in the production, manufacture, transmission or storage of gas from the duties, obligations, and liabilities imposed under the Act on "subsidiary companies" of registered holding companies, if no more than 50% of the voting interests in such companies are owned by registered holding companies. For further information, please contact Grant G. Guthrie at (202) 523–5156.

3. Consideration of an application by The Southern Company, a holding company registered under the Public Utility Holding Company Act of 1935, to issue and sell at competitive bidding up to 17 million shares of common stock aggregating approximately $200 million. A request for hearing on the proposal has been filed by three shareholders of The Southern Company. For further information, please contact William C. Weeden at (202) 523–5688 or Mary Ann Oliver at (202) 523–5685.

4. Consideration of whether to issue the proposed Memorandum Findings and Opinion and a related Order approving a plan filed by American Electric Power Company, Inc., a registered holding company, and its electric utility subsidiary, Columbus and Southern Ohio Electric Company ("CSOE"), for the elimination of the minority interest in CSOE's common stock. For further information, please contact Grant G. Guthrie at (202) 523–5156.

5. Consideration of whether to amend Rule 45 promulgated under the Public Utility Holding Company Act of 1935. The proposed amendment would delete the present Rule 45(b)(6) and add a new Rule 45(c). It is designed to eliminate the need for a holding company system to seek a Commission order concerning the allocation of losses of a subsidiary in the system's consolidated tax returns. For further information, please contact Grant G. Guthrie at (202) 523–5156.

At times changes 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.

October 22, 1980.

[S–1957–80 Filed 10–22–80; 2:43 pm]

BILLING CODE 8010–01–M

federal register

Friday
October 24, 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

Puerto Rico: PR80–3069, PR80–3070
Tennessee: TN80–1114

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.

Florida:	
FL77-1170	May 20, 1977.
FL79-1111	July 20, 1979.
Georgia: GA79-1149	Nov. 23, 1979.
Louisiana: LA80-4026	June 13, 1980.
New York:	
NY80-3020	Apr. 4, 1980.
NY80-3057	Sept. 19, 1980.
Ohio:	
OH80-2028	Aug. 1, 1980.
OH80-2044	July 7, 1980.
OH80-2052	July 7, 1980.
Oklahoma:	
OK80-4061	July 18, 1980.
OK80-4060	July 18, 1980.
Pennsylvania: PA80-3043	July 7, 1980.
Texas:	
TX80-4018	Mar. 14, 1980.
TX80-4031	June 6, 1980.
TX80-4032	June 6, 1980.
TX80-4033	May 16, 1980.
TX80-4034	June 6, 1980.
TX80-4036	June 20, 1980.
Virginia: VA78-3073	Oct. 13, 1978.
West Virginia: WV80-3018	July 18, 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.

Colorado:	
CO79-5117(CO80-5137)	June 15, 1979.
CO79-5118(CO80-5138)	June 15, 1979.
CO79-5119(CO80-5139)	June 15, 1979.
CO79-5120(CO80-5140)	June 15, 1979.
Maryland: MD79-3031 (MD80-3061)	Nov. 30, 1979.
Pennsylvania: PA78-3078 (PA80-3071)	Oct. 20, 1978.

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 determination applicable to residential construction

consisting of single family homes and apartments up to and including four (4) stories: AL79-1120 dated March 23, 1979, for Bibb, Choctaw, Fayette, Greene, Hale, Lamar, Marengo, Perry, Pickens, Sumter and Tuscaloosa Counties, Alabama.

Change: The number of the Minnesota decision cancelled by **Federal Register** dated October 3, 1980 (45 FR 65833) should be changed from "MN77-2065" to "MN77-2064".

Signed at Washington, D.C., this 17th day of October 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: PUERTO RICO COUNTY: ISLAND WIDE
DECISION NO.: PR80-3069 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Residential Construction Projects consisting of 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.
Carpenters	3.68				
Carpenter's Helpers	3.25				
Cement Masons	3.58				
Electricians	4.12				
Electrician's Helpers	3.34				
Ironworkers, Reinforcing	3.10				
Laborers:					
Unskilled	3.10				
Mason Tenders	3.25				
Painters, Brush	3.25				
Plasterers	3.75				
Plumbers & Pipefitters	3.79				
Plumber's Helpers	3.40				
Tile Setters	3.38				
Truck Drivers	3.47				
Power Equipment Operators:					
Tractors	4.17				
Rollers	4.00				
Diggers	4.09				
Backhoes	4.50				
Bulldozers	4.68				
Cranes	4.88				
Graders	4.50				
Loaders	4.60				
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)).					

NEW DECISION

STATE: PUERTO RICO COUNTY: ISLAND WIDE
DECISION NO.: PR80-3070 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	3.72				
Carpenter's Helpers	3.10				
Cement Masons	3.60				
Electricians	3.95				
Electrician's Helpers	3.30				
Ironworkers, Reinforcing	3.46				
Laborers					
Unskilled	3.10				
Mason Tenders	3.20				
Pipelayers	3.60				
Blasters	3.75				
Painters, Brush	3.20				
Piledrivermen	3.35				
Plumbers & Pipefitters	4.15				
Plumber's Helpers	3.28				
Truck Drivers	3.56				
Power Equipment Operators					
Riggers	3.68				
Oilers	3.65				
Tractors	4.36				
Pavers	4.01				
Rollers	3.61				
Diggers	4.00				
Backhoes	4.69				
Bulldozers	4.32				
Drillers	3.50				
Cranes	4.64				
Scrapers	4.25				
Graders	4.28				
Loaders	4.60				
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)).					

NEW DECISION

STATE: TENNESSEE COUNTIES: CARTER, GREENE, HAWKINS, JOHNSON, SULLIVAN, UNICOI, & WASHINGTON

DECISION NUMBER: TN80-1114 DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes 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.
BRICKLAYERS/BLOCK MASONS	$9.35				
CARPENTERS/DRYWALL HANGERS	5.86				
ELECTRICIANS	5.00				
LABORERS	3.73				
PAINTERS/DRYWALL FINISHERS	4.95				
PLUMBERS	5.00				
ROOFERS	5.00				
SOFT FLOOR LAYERS	5.07				
TRUCK DRIVERS	4.50				
WELDERS-Rate for Craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	6.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

MODIFICATION PAGE 1

DECISION NO. FL77-1160 - MOD. NO. 3
(42 FR 26093 - May 20,1977)
Polk County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians					
Industrial Manufacturing production facilities (excl. retail food establishments); Hospitals (over 50 beds) excluding nursing homes and clinics shopping malls with over 10 businesses; and any business complex with elevator or escalator system:					
Wiremen	11.75	5.5%	6%	4%	.10
Cable Splicer	12.25	5.5%	6%	4%	.10
Truck Drivers	3.10				

DECISION NO. FL79-1111 - MOD. NO. 3
(44 FR 42858 - July 20, 1979)
Bay County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians	12.90	.55	3%		5%
Sprinkler Fitters	12.40	.85	1.20		.10

MODIFICATION PAGE 2

DECISION #GA79-1149 - Mod. #6
(44 FR 67307 - November 23, 1979)
Richmond County, Georgia

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$10.65				.02
Millwrights	11.65				.02
Piledrivermen	11.05				.02

DECISION NO. LA80-4026 - MOD. #5
(45 FR 40438 - June 13, 1980)
Statewide Louisiana

CHANGE:

	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Zone 4 - Group 1	$ 7.95	.30	.27		.05
Group 2	8.05	.30	.27		.05
Group 3	8.10	.30	.27		.05
Zone 5 - Group 1	7.55	.30	.27		.05
Group 2	7.65	.30	.27		.05
Group 3	7.70	.30	.27		.05

Change Line construction modified in Mod. #4 dated October 10, 1980 on page 67507 to read for Zone 4

MODIFICATION PAGE 3

DECISION NO. NY80-3020 - Mod #1
(45 FR 23262 - April 4, 1980)
Bronx, Kings, Queens, New York, & Richmond Counties, New York

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	14.70	1.21	2.31		
Boilermakers	16.34	5%	5%		
Bricklayers	12.00	1.48	3.98		
Carpenters, & Soft Floor Layers	13.04	1.85	1.78	.95	.05
Millwrights	13.04	1.85	1.78	1.11	.04
Dockbuilders & Piledrivermen	12.94	1.85	1.78	1.01	.05
Cement Masons	12.10	2.04	1.67		.09
Electricians	14.65	1½%+r	7½%+s	8½%+t	1%
Glaziers	13.75	.66	1.91	.67	.01
Ironworkers					
Structural	12.70	1.86	4.15	1.75+i	.11
Ornamental Finisher	11.90	1.51	3.30	1.00	.14
Stone Derrickmen & Riggers	14.62	2.23	1.51	1.50	.01
Laborers					
Asphalt Laborers	11.45	1.30	1.55	m	
Asphalt Rakers	11.71	1.30	1.55	m	
Asphalt Tampers	11.47	1.30	1.55	m	
Cement Concrete & Excavation	10.65	1.80	1.85	q	
Mason Tenders	11.10	.887	1.595		
Marble Setters					
Cutters & Setters	11.90	1.21	1.71	f	
Carvers	12.05	1.21	1.71	f	
Polishers	11.58	1.21	1.71	f	
Painters					
Brush & Roller	12.00	1.14	1.20+h	3%	
Spray & Scaffold	14.57	1.14	1.20+h	3%	
Plasterers					
Kings	12.10	1.45		1.45	
Plumbers					
Kings, Queens	12.75	2.10	2.14	1.19	.22
Richmond	12.79	1.30+p	2.01	1.05	.30
Roofers					
Composition, Damp Waterproofers	11.05	3.14	2.85		.15
Sheet Metal Workers	14.365	1.925	1.665		.16
Sprinkler Fitters & Steamfitters	13.88	2.75	1.12	1.00	.07
Stonemasons	14.00	.75	1.00		
Tile Setters	11.725	1.15	1.10		
Tile Setters Helpers	10.21	1.055	.77		

FOOTNOTES:

r. Employer contributes $7.00 per day.

s. Employer contributes $4.00 per day.

t. Paid Holidays A through F, Washington's Birthday, Columbus Day, and Election Day.

DECISION NO. NY80-3020 - Mod #1 Cont'd

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.

DECISION NO. NY80-3057 - MOD. #1
(45 FR 62672 - September 19, 1980)
Bronx, Kings, Queens, New York & Richmond Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.70	1.21	2.31		
IRONWORKERS					
Structural	12.70	1.86	4.15	1.75+g	.11
LABORERS					
Mason Tenders	11.10	.887	1.595		
PAINTERS					
Brush & Roller	12.00	1.14	1.20+n	3%	
Spray & Scaffold	14.57	1.14	1.20+n	3%	
Fire Escape	13.71	1.14	1.20+n	3%	

FOOTNOTE:

n. Employer contributes $5.00 per day to an Annuity Fund.

MODIFICATION PAGE 6

DECISION NO. OH80-2028 - Mod. #3
(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:					
Painters:					
Portage & Summit Cos. (Up to & inclu. Ohio Turnpike):					
Brush; Roller; & Paperhanger	$12.80	1.07	.60		
Structural Steel; Drywall Finishers & Tapers	13.30	1.07	.60		
Spray	13.40	1.07	.60		

DECISION NO. OH80-2044 - Mod. #3
(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

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Medina Co.:					
Brush; Paperhangers; & Roller	12.80	1.07	.60		
Structural Steel; Drywall Finisher & Taper	13.30	1.07	.60		
Spray	13.40	1.07	.60		

MODIFICATION PAGE 7

DECISION NO. OH80-2052 - Mod. #3
(45 FR 45834 - July 7, 1980)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Medina, Portage (Up to & incl The Ohio Turnpike), & Summit (Up to & incl. The Ohio Turnpike) Cos.:					
Brush; Paperhanger; & Roller	$12.80	1.07	.60		
Structural Steel	13.30	1.07	.60		
Spray	13.40	1.07	.60		

DECISION #OK80-4061-Mod. #1
45 FR 48449-July 18, 1980
Muskogee, Adair, Cherokee & Okmulgee Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$13.95	.55	.90		.03
CARPENTERS (Area II)	9.80	.55	.85		.05
MILLWRIGHTS-PILEDRIVERMEN:					
Area II	11.15	.55	.85		.05
ELECTRICIANS:					
ZONE III					
Electricians	13.25	.63	3%+.61		.10
Cable splicers	13.50	.63	3%+.61		.10
Marble, Tile & Terrazzo & Workers	12.74	.70	.60		
Painters (Adair, Muskogee & Cherokee Counties):					
Brush painting & roller	10.55		.40	.20	.10
Highwork & Stage	11.15		.40	.20	.10
Sandblasting & Spray	11.40		.40	.20	.10
Hot or Bituminous	12.05		.40	.20	.10
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.75		.12
GROUP II	12.70	.70	.75		.12
GROUP III	12.20	.70	.75		.12
GROUP IV	11.95	.70	.75		.12
GROUP V	11.70	.70	.75		.12
GROUP VI	11.45	.70	.75		.12
GROUP VII	11.20	.70	.75		.12
GROUP VIII	10.20	.70	.75		.12
Plasterers	10.15				.01

MODIFICATION PAGE 8

DECISION #OK80-4060-Mod. #2
45 FR 48439-July 18, 1980
Pittsburg County, Oklahoma

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.95	.55	.90		.03
ELECTRICIANS:					
Electricians	13.25	.63	3%+.61		.10
Cable splicers	13.50	.63	3%+.61		.10

DECISION NO. PA80-3043
MOD. NO. 4
(45 FR 45849 - July 7, 1980)
Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania

CHANGE:					
LINE CONSTRUCTION:					
Linemen	$12.52	.60	3%		3/8 of 1%
Groundman	7.45	.60	3%		3/8 of 1%
Cable Splicers	12.52	.60	3%		3/8 of 1%
Winch truck op.	8.73	.60	3%		3/8 of 1%
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

MODIFICATION PAGE 9

DECISION NO. TX80-4018 - MOD. #3
(45 FR 16828 - March 14, 1980)
Cameron, Hidalgo, Starr & Willacy Cos., Texas

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$12.70	1.275	1.00		.03

DECISION NO. TX80-4031 - MOD. #6
(45 FR 38250 - June 6,1980)
Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas

CHANGE:					
Building Construction:					
Carpenters:					
Zone 2 - Carpenters	10.91	.42			
Millwrights	12.18	.42			
Ironworkers	11.65	.55	1.45		.12

DECISION NO. TX80-4032 - MOD. #6
(45 FR 38254 - June 6,1980)
Bexar County, Texas

CHANGE:					
Bricklayers & stonemasons	12.08	.57	.30	.25	.05
Laborers - Group 1	7.12	.57	.50		.05
Group 2	7.37	.57	.50		.05
Group 3	7.62	.57	.50		.05

DECISION NO. TX80-4033 - MOD. #5
(45 FR 32544 - May 16,1980)
Bowie County, Texas

CHANGE:					
Boilermakers	12.70	1.275	1.00		.03

MODIFICATION PAGE 10

DECISION NO. TX80-4034 - MOD. #4 (45 FR 38255 - June 6,1980) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$12.70	1.275	1.00		.03
Bricklayers & stonemasons	13.60	.89	.90		.06
Cement masons	12.90	.68	.97		.08
Ironworkers	13.26	.55	1.70		.10
Marble masons	12.42	.89	.30		.06
Painters - Group 1	12.955	.715	.55	.40	.04
Group 2	13.33	.715	.55	.40	.04
Group 3	13.08	.715	.55	.40	.04
Group 4	13.58	.715	.55	.40	.04
Soft floor layers	12.42	.60	.55		.14
Terrazzo workers	12.42	.89	.30		.06
Tile setters	12.42	.89	.30		.06
Power equipment operators:					
Group 1	13.34	.75	1.25		.07
Group 2	11.48	.75	1.25		.07
Group 3	10.85	.75	1.25		.07
Group 4	10.64	.75	1.25		.07
DECISION NO. TX80-4036 - MOD. #4 (45 FR 41836 - June 20,1980) Ector & Midland Cos., Texas					
CHANGE:					
Boilermakers	12.70	1.275	1.00		.03
Decision No. VA78-3073-Mod. #7 (43 FR 47445-October 13, 1978) Radford Army Ammunition Plant, Virginia					
CHANGE:					
PLUMBERS AND PIPEFITTERS	$11.75	.50	.65	.35	.05

MODIFICATION PAGE 11

DECISION NO. WV80-3018 - MOD. #2 (45 FR 48457 - July 18, 1980) State of West Virginia excluding the counties of Berkeley, Jefferson and Morgan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Area 1	12.99	.80	1.49		.03
BOILERMAKERS:					
Area 1	14.50	1.275	1.20		.04
BRICKLAYER, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS AND TILE LAYERS:					
Area 1	11.79	.80	1.00		
Area 3	11.70				
Area 7					
Bricklayers & Stone Masons	13.09	.80	6%		.02
Tile Layers	12.94	.80	6%		.02
CARPENTERS:					
Area 2					
Carpenters	11.68	.80	1.00		.03
Piledrivermen	12.02	.80	1.00		.03
Area 3					
Carpenters	12.73	1.04	1.25		.03
Area 4					
Carpenters	13.14	.85	1.00		.02
Piledrivermen	13.43	.85	1.00		.02
Area 5					
Carpenters	12.71	.85	1.00		.02
Piledrivermen	12.96	.85	1.00		.02
Area 6					
Carpenters	13.42	.75	1.25		.05
Piledrivermen	13.74	.75	1.25		.05
CEMENT MASONS & PLASTERERS:					
Area 1	13.26	.75			
Area 7					
Plasterers	11.75				.01
Area 9	14.16	.80			

DECISION NO. WV80-3018 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Jackson, Pleasants, Ritchie, Tyler, Wirt and Wood Cos.					
Wiremen	12.75	.50	3%+1.50	1.75	.04
Cable Splicers	13.00	.50	3%+1.50	1.75	.04
Brooke (Buffalo twsp. only), Marshall, Ohio and Wetzel Cos.					
Wiremen	13.20	.50	3%+1.00	1.25	.04
Cable Splicers	13.45	.50	3%+1.00	1.25	.04
Hampshire & Mineral Cos.					
Wiremen	12.40	.80	3%+.70		3/4%
Marion, Monogalia, Taylor Preston, Tucker Cos.					
Contracts under $12,000					
Wiremen	7.40	.50	3%+1.25	1.75	.04
Contracts over $12,000					
Wiremen	12.35	.50	3%+1.25	1.75	.04
Cable Splicers	12.50	.50	3%+1.25	1.75	.04
Hancock Co. (Grant twsp. only):					
Wiremen	13.30	2.00	3%+.53		.09
Cable Splicer	13.70	2.00	3%+.53		.09
Summers & Wyoming Cos.					
Contracts $15,000 or less					
Wiremen	11.17	.50	3%+.67	.77	.06
Cable Splicers	11.47	.50	3%+.67	.77	.06
Contracts over $15,000					
Wiremen	14.07	.50	3%+.67	.77	.06
Cable Splicers	14.37	.50	3%+.67	.77	.06
Fayette Co. (except Falls & Kanawha Twsp.)					
Contracts $15,000 or less					
Wiremen	10.97	.50	3%+.67	.77	.06
Cable Splicers	11.27	.50	3%+.67	.77	.06
Contracts over $15,000					
Wiremen	13.87	.50	3%+.67	.77	.06
Cable Splicers	14.17	.50	3%+.67	.77	.06

DECISION NO. WV80-3018 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: CONT'D					
Raleigh Co. (except Clearfork & Marsh Twsp.)					
Contracts $15,000 or less					
Wiremen	10.67	.50	3%+.67	.77	.06
Cable Splicer	10.97	.50	3%+.67	.77	.06
Contracts over $15,000					
Wiremen	13.57	.50	3%+.67	.77	.06
Cable Splicer	13.87	.50	3%+.67	.77	.06
Boone, Braxton, Calhoun, Clay, Fayette (Falls & Kanawha Twsps), Gilmer, Kanawha, Nicholas, Putnam, Raleigh (Clear Fork & Marsh Fork twsp.) Roane & Webster Cos.					
Wiremen	15.00	.50	3%+.75		.04
Cable Splicer	16.50	.50	3%+.75		.04
ELEVATOR CONSTRUCTORS:					
Brooke, Hancock, Marshall Ohio Cos.					
Mechanics	12.80	1.195	.95	b+c	.035
Helper	8.96	1.195	.95	b+c	.035
Probationary Helper	6.40	1.195	.95	b+c	.035
GLAZIERS:					
Area 1	12.63		.15		
IRONWORKERS:					
Area 4	12.75	.75	1.40		
Area 5	12.05	.80	.85		.03
LABORERS:					
Area 7					
Group 1	10.57	.70	.70		.05
Group 2	10.87	.70	.70		.05
Group 3	11.22	.70	.70		.05
Group 4	11.17	.70	.70		.05

MODIFICATION PAGE 14

DECISION NO. WV80-3018 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Hampshire & Mineral Cos.					
Linemen	12.40	.80	3%+.70		
Equipment Operators	11.78	.80	3%+.70		
Truck drivers & groundmen	8.06	.80	3%+.70		
Hancock Co. (Grant twsp.)					
Linemen & equipment operators	13.30	15%	7%		½%
Truck driver & groundmen	11.90	15%	7%		½%
Cable Splicer	13.70	15%	7%		½%
Raleigh (except Clear Fork & Marsh Fork twsp.)					
Linemen & equipment operators	13.47	.70	3%+.67	.77	
Cable splicers	13.77	.70	3%+.67	.77	
Groundmen & truck drivers	10.78	.70	3%+.67	.77	
Summers & Wyoming Cos.					
Linemen & equipment operators	13.97	.70	3%+.67	.77	
Cable splicers	14.27	.70	3%+.67	.77	
Groundmen & truck drivers	11.18	.70	3%+.67	.77	
Fayette Co. (except Falls & Kanawha twsps.)					
Linemen & equipment operators	13.77	.70	3%+.67	.77	
Cable splicers	14.07	.70	3%+.67	.77	
Groundmen & truck drivers	11.02	.70	3%+.67	.77	
Marion, Monogalia, Taylor Tucker Cos.					
Linemen & equipment operators	12.35	.50	3%+1.25	1.75	
Cable splicers	13.59	.50	3%+1.25	1.75	
Groundmen & truck drivers	9.88	.50	3%+1.25	1.75	

MODIFICATION PAGE 15

DECISION NO. WV80-3018 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: CONT'D					
Jackson, Pleasants, Ritchie, Tyler, Wirt, Wood Cos.					
Linemen & equipment operators	12.55	.70	3%+1.50	1.75	½%
Cable splicers	13.81	.70	3%+1.50	1.75	½%
Groundmen	10.04	.70	3%+1.50	1.75	½%
Brooke (Buffalo Twps.) Marshall, Ohio & Wetzel Cos.					
Linemen & equipment operators	13.20	.50	3%+1.00	1.25	
Cable splicers	13.45	.50	3%+1.00	1.25	
Groundmen	10.56	.50	3%+1.00	1.25	
MillWRIGHTS:					
Area 3	13.24	.80	.56		.06
PAINTERS:					
Area 3					
Brush, roller, paper, vinyl hangers and seamless floors	10.87	.80	.60		.02
Glove	11.12	.80	.60		.02
Spray, sandblast, seamless floor (epoxy), steam cleaning, metalizing	11.87	.80	.60		.02
PLUMBERS & PIPEFITTERS:					
Area 6	13.95	1.10	1.89	1.10	.12
SHEET METAL WORKERS:					
Area 3	11.57	.81	1.10		.07

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld

DECISION NUMBER: CO80-5137

DATE: Date of Publication

Supersedes Decision No. CO79-5117 dated June 15, 1979, in 44 FR 24719

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.
ASBESTOS WORKERS	$13.49	.75	$1.52		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; Stonemasons:					
Eagle County	12.29	.85	1.10		.06
Boulder and Grand Counties	11.95	.85	1.10		.05
Elbert, Lake and Park Counties	12.25	.85	.95		.05
Larimer County	12.29	.85	1.10		.05
Remaining Counties	12.29	.85	1.10		.06
CARPENTERS:*					
Area 1:					
Zone 1	11.065	1.00	1.00	.95	.09
Zone 2	12.45	1.00	1.00	.95	.09
Zone 3	13.83	1.00	1.00	.95	.09
Area 2:					
Zone 1	11.065	1.00	1.00	.95	.09
Zone 2	12.45	1.00	1.00	.95	.09
Zone 3	13.83	1.00	1.00	.95	.09
Area 3	11.065	1.00	1.00	.95	.09
Area 4:					
Zone 1	10.37	1.00	1.00	.95	.09
Zone 2	10.87	1.00	1.00	.95	.09
Zone 3	11.12	1.00	1.00	.95	.09
CEMENT MASONS:					
Cement Masons	12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on scaffold, swing stage, or temporary platform over 25'	12.29	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Elbert and Park Counties: Electricians	12.75	.72	3%+.65		.015
Larimer, Morgan and Weld Counties: Electricians	13.00	.70	3%+1.25		3/10%
Remaining Counties:					
Electricians	14.25	.70	3%+1.25		3/10%
Cable Splicers	14.50	.70	3%+1.25		3/10%

*See AREA and ZONE Descriptions Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$13.26	$1.195	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.23	1.195	.82	a	.035
GLAZIERS	12.95				
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LATHERS	12.94				.01
MARBLE SETTERS:					
Elbert, Lake, and Park Counties	11.79	.85	.70		
Remaining Counties	12.40	1.10	1.15		.04
MILLWRIGHTS	12.41	1.00	.85		.135
PAINTERS:					
*Park County (southern half)					
Brush, Roller, Taper, hand texture	10.79	.95	.70		.04
Steel and Paperhanger	11.29	.95	.70		.04
Spray	12.04	.95	.70		.04
Remaining Counties including northern half of Park County:*					
Brush and Roller; Hardwood Finisher	13.31	.95	1.15		.08
Drywall Finisher (hand)	13.56	.95	1.15		.08
Drywall Finisher (tool); Spray; Swing Stage and Chair; Sandblast (exterior); Paperhanger	13.91	.95	1.15		.08
Sandblast (interior); Steeplejack	15.23	.95	1.15		.08
PLASTERERS	12.94				.01
PLUMBERS; Steamfitters:					
Southern portions of Douglas, Elbert, and Park Counties*	11.75	.85	1.15	1.60	.10
Boulder County	13.25	.90	1.25	.95	.15
Remaining Counties (including northern portions of Douglas, Elbert, and Park Counties)	13.17	.90	1.25	.90	.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Eagle County and southern portions of Lake, Jefferson, Park, Douglas, and Elbert Counties**	$11.41	.59	.40		
Remaining Counties including northern portions of Lake, Park, Jefferson, Douglas, and Elbert Counties	13.17	.90	1.25	.90	.08
SHEET METAL WORKERS	13.20	3%+.73	1.51		.10
SOFT FLOOR LAYERS	11.18	.65	.75	.50	.10
SPRINKLER FITTERS	14.30	.85	1.20		.08
TERRAZZO WORKERS:					
Elbert, Lake, and Park Counties	11.79	.85	.70		
Remaining Counties	12.40	1.10	1.15		.04
TILE LAYERS:					
Elbert, Lake, and Park Counties	11.79	.85	.70		
Remaining Counties	12.40	1.10	1.15		.04
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	8.95	1.10	1.15	.50	
Floor Grinders	9.10	1.10	1.15	.50	
Base Grinders	9.65	1.10	1.15	.50	

*Park County dividing Line: Line from the S.W. corner of Jefferson County to the S.E. corner of Lake County

** Area south of Lake County to a point 2 miles north of the City of Leadville to a point 1/2 mile north of the City of Limon at the west border of Lincoln County

FOOTNOTE:

a. Employer contributes 8% basic hourly rate for over 5 years service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA and ZONE DESCRIPITONS

CARPENTERS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Grand, Gilpin, and Jefferson Counties; Park County (northern area):

(a) Denver Metropolitan Area including Louisville, Golden, Boulder, and Longmont basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 2: Morgan and Weld Counties:

(b) Denver Northeastern Area of Colorado including Greeley, Loveland, and Fort Morgan basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 3: Larimer County (S.E. portion within Loveland basing point, Zone 1)

Area 4: Larimer (Remainder of County); Eagle, Lake, and Park Counties (south 40 miles); Summit County:

Zone 1: 0 to 30 miles from Post Office in Leadville or Fort Collins
Zone 2: 30 to 60 miles from Post Office in Leadville or Fort Collins
Zone 3: All work outside of the 60 mile radius from Post Office in Leadville or Fort Collins

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and or Appr. Tr.
	ZONE 1	ZONE 2	ZONE 3				
Group 1	$ 5.50	$5.95	$6.40	.59	.70		.05
Group 2	8.65	9.10	9.55	.59	.70		.05
Group 3	8.93	9.38	9.83	.59	.70		.05
Group 4	9.15	9.60	10.05	.59	.70		.05
Group 5	9.20	9.65	10.10	.59	.70		.05
Group 6	9.45	9.90	10.35	.59	.70		.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Other than for work in Tunnels, Shafts, and Raises)	ZONE 1	ZONE 2				
Group 1	$ 9.75	$10.50	.93	$1.10	.55	.12
Group 2	10.10	10.85	.93	1.10	.55	.12
Group 3	10.45	11.20	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	10.90	11.65	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.90	10.65	.93	1.10	.55	.12
Group 2	10.25	11.00	.93	1.10	.55	.12
Group 3	10.35	11.10	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	11.15	11.90	.93	1.10	.55	.12

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman; Chainman; Grade Checker

Group 2: Conveyor; handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS Classifications

TRUCK DRIVERS

Group 1: Pickups; Tenders; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu.yds.

Group 18: Dump Trucks, over 104 cu. yds.

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)).

ZONE DESCRIPTIONS

LABORERS

CITIES within ZONES 1, 2, and 3:

Boulder	Denver	Dillion
Eagle	Golden	Fort Collins
Fort Morgan	Leadville	Granby
Greeley	Littleton	Vail

ZONE 1 - That area encompassed by 0 to 30 driving miles from the Main Post Office
ZONE 2 - That area encompassed by 30 to 70 driving miles from the Main Post Office
ZONE 3 - That area encompassed by 70 driving miles and over from the Main Post Office

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:

Boulder	Denver	Douglas
Clear Creek	Gilpin	Jefferson
Larimer	Morgan	Weld

B. Counties entirely within Zone 2:
Grand Lake Park Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Wlbert Counties lying west of the Township line between R59W and R60W of the 8th Guide Meridian West; and all of Eagle County lying West of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59 and R60W of the 8th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: CO80-5138 DATE: Date of Publication
Supersedes Decision No. CO79-5118 dated June 15, 1979, in 44 FR 34724
DESCRIPTION OF WORK: Building Projects (does not include 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	$13.64	.75	$1.37		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; Stonemasons	12.25	.85	.95	.95	.04
CARPENTERS:					
Zone 1: 0-40 miles from Post Office in Colorado Springs	10.37	1.00	1.00	.95	.07
Zone 2: 40-75 miles from Post Office in Colorado Springs	10.87	1.00	1.00	.95	.07
Zone 3: 75 miles and over	11.12	1.00	1.00	.95	.07
CEMENT MASONS:					
Cement Masons	12.14	.59	1.15		.13
Working with composition materials and color	12.64	.59	1.15		.13
Working on temporary platform over 25'	12.39	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS	12.75	.72	3%+.65		.015
ELEVATOR CONSTRUCTORS	13.26	1.195	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.28	1.195	.82	a	.035
GLAZIERS	12.95				
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LATHERS	11.94				.01
MARBLE SETTERS	11.79	.85	.70		
MILLWRIGHTS	12.41	1.00	.85		.19
PAINTERS:					
Brush and Roller; Tapers, hand texture	10.79	.95	.70		.04
Paperhangers; Steel Brush	11.29	.95	.70		.04
Spray painters	11.54	.95	.70		.04
Steel, Spray	12.04	.95	.70		.04
PLASTERERS	12.94				.01
PLUMBERS; Pipefitters	11.75	.85	1.15	1.60	.10
ROOFERS	11.41	.59	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
SHEET METAL WORKERS	$13.20	3%+.73	$1.51		.10
SOFT FLOOR LAYERS	11.18	.65	.75	.50	.10
SPRINKLER FITTERS	14.30	.85	1.20		.08
TERRAZZO WORKERS	12.40	1.10	1.15		.04
TILE SETTERS	11.79	.85	.70		
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.10	1.15	.50	
Floor Grinders	9.70	1.10	1.15	.50	
Base Grinders	10.25	1.10	1.15	.50	

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and or Appr. Tr.
	ZONE 1	ZONE 2	ZONE 3				
Group 1	$ 5.50	$5.95	$6.40	.59	.70		.05
Group 2	8.65	9.10	9.55	.59	.70		.05
Group 3	8.93	9.38	9.83	.59	.70		.05
Group 4	9.15	9.60	10.05	.59	.70		.05
Group 5	9.20	9.65	10.10	.59	.70		.05
Group 6	9.45	9.90	10.35	.59	.70		.05

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

ZONE DESCRIPTIONS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in Colorado Springs
ZONE 2: That area encompassed by 30 to 70 driving miles from the Main Post Office in Colorado Springs
ZONE 3: That area encompassed by 70 driving miles and over from the Main Post Office in Colorado Springs

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Other than for work in Tunnels, Shafts, and Raises)					
Group 1	$9.75	.93	$1.10	.55	.12
Group 2	10.10	.93	1.10	.55	.12
Group 3	10.45	.93	1.10	.55	.12
Group 4	10.60	.93	1.10	.55	.12
Group 5	10.75	.93	1.10	.55	.12
Group 6	10.90	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)					
Group 1	9.90	.93	1.10	.55	.12
Group 2	10.25	.93	1.10	.55	.12
Group 3	10.35	.93	1.10	.55	.12
Group 4	10.60	.93	1.10	.55	.12
Group 5	10.75	.93	1.10	.55	.12
Group 6	11.15	.93	1.10	.55	.12

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts, and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Crout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Group 1	$9.36	.94	.70	.40	
Group 2	9.46	.94	.70	.40	
Group 3	9.56	.94	.70	.40	
Group 4	9.61	.94	.70	.40	
Group 5	9.66	.94	.70	.40	
Group 6	9.71	.94	.70	.40	
Group 7	9.76	.94	.70	.40	
Group 8	9.81	.94	.70	.40	
Group 9	9.91	.94	.70	.40	
Group 10	9.96	.94	.70	.40	
Group 11	10.06	.94	.70	.40	
Group 12	10.21	.94	.70	.40	
Group 13	10.26	.94	.70	.40	
Group 14	10.36	.94	.70	.40	
Group 15	10.46	.94	.70	.40	
Group 16	10.56	.94	.70	.40	
Group 17	10.66	.94	.70	.40	
Group 18	10.86	.94	.70	.40	

Group 1: Pickups; Tenders; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

DECISION NO. CO80-5138 Page 8

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

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: Colorado COUNTIES: Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin

DECISION NUMBER: CO80-5139 DATE: Date of Publication

Supersedes Decision No. CO79-5119 dated June 15, 1979, in 44 FR 34728

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.
ASBESTOS WORKERS	$13.49	.75	$1.52		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; Stonemasons:					
Pitkin County	12.29	.85	1.10		.06
Remaining Counties	11.25	.85	1.10		.05
CARPENTERS:					
Post Office basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose:					
Zone 1: 0-30 miles from nearest basing point	10.37	1.00	1.00	.95	.07
Zone 2: 30-60 miles from nearest basing point	10.87	1.00	1.00	.95	.07
Zone 3: 60 miles and over from nearest basing point	11.12	1.00	1.00	.95	.07
CEMENT MASONS:					
Cement Masons	12.14	.59	1.15		.13
Working with composition materials and color	12.64	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.39	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Electricians	14.10	.75	3%+.50		1½%
Cable Splicers	14.35	.75	3%+.50		1½%
ELEVATOR CONSTRUCTORS	13.26	1.195	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.28	1.195	.82	a	.035
GLAZIERS	12.95				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	12.35	1.04	1.25		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Delta, Gunnison, and Montrose Counties	$11.94				.01
Garfield, Mesa, and Pitkin Counties	12.94				.01
MARBLE and TILE SETTERS; TERRAZZO WORKERS	11.79	1.10	1.15		.04
MILLWRIGHTS	12.41	1.00	.85		.19
PAINTERS:					
Brush, Roller and Drywall Finishers	13.31	.95	1.15		.08
Paperhangers, Spray, Swing Stage	13.91	.95	1.15		.08
PLASTERERS	12.94				.01
PLUMBERS	12.85	.85	1.15		.10
ROOFERS	11.41	.59	.40		
SHEET METAL WORKERS	13.20	3%+.73	1.51		
SOFT FLOOR LAYERS	11.18	.65	.75	.50	.10
SPRINKLER FITTERS	14.30	.85	1.20		.08
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	8.95	1.10	1.15	.50	
Floor Grinders	9.10	1.10	1.15	.50	
Base Grinders	9.65	1.10	1.15	.50	

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2	ZONE 3				
Group 1	$ 5.50	$5.95	$6.40	.59	.70		.05
Group 2	8.65	9.10	9.55	.59	.70		.05
Group 3	8.93	9.38	9.83	.59	.70		.05
Group 4	9.15	9.60	10.05	.59	.70		.05
Group 5	9.20	9.65	10.10	.59	.70		.05
Group 6	9.45	9.45	10.35	.59	.70		.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises)	ZONE 1	ZONE 2				
Group 1	$ 9.75	$10.50	.93	$1.10	.55	.12
Group 2	10.10	10.85	.93	1.10	.55	.12
Group 3	10.45	11.20	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	10.90	11.65	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.90	10.65	.93	1.10	.55	.12
Group 2	10.25	11.00	.93	1.10	.55	.12
Group 3	10.35	11.10	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	11.15	11.90	.93	1.10	.55	.12

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS Classifications

Group 1: Pickups; Tenders; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

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)).

ZONE DESCRIPTIONS

LABORERS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in each of the following Cities:

Aspen	Glenwood Springs	Grand Junction
Gunnison	Montrose	Naturita
	Rifle	

ZONE 2: That area encompassed by 30 to 70 driving miles from the Main Post Office of the Cities listed in Zone 1

ZONE 3: That area encompassed by 70 driving miles and over from the Main Post Office of the Cities listed in Zone 1

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:
Delta Garfield Mesa

B. Counties entirely within Zone 2:
Gunnison Pitkin

C. Legal description of the portion of Montrose County which is included within Zone 1, as follows:
All of Montrose County lying north of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said part lying East of said Township Line of the New Mexico Principal Meridian

D. Legal description of the portion of Montrose County which is included within Zone 2, as follows:
All of Montrose County except that part lying north of the North Line of Ouray County and said North Line extended West of said Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Las Animas, Otero and Pueblo

DECISION NUMBER: CO80-5140 DATE: Date of Publication

Supersedes Decision No. CO79-5120 dated June 15, 1979, in 44 FR 34733

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.
ASBESTOS WORKERS	$13.49	.75	$1.52		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS	12.17	.85	1.10		.12
CARPENTERS	10.37	1.00	1.00	.95	.07
CEMENT MASONS:					
Cement Masons	12.14	.59	1.15		.13
Working with composition material and color	12.64	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.39	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Zone 1: 0-12 miles from Post Office:					
Electricians	13.64	.72	3%+1.00		1½%
Cable Splicers	15.00	.72	3%+1.00		1½%
Zone 2: 12-20 miles from Post Office:					
Electricians	14.47	.72	3%+1.00		1½%
Cable Splicers	15.83	.72	3%+1.00		1½%
Zone 3: 20-32 miles from Post Office					
Electricians	15.02	.72	3%+1.00		1½%
Cable Splicers	16.38	.72	3%+1.00		1½%
Zone 4: 32-50 miles from Post Office:					
Electricians	15.71	.72	3%+1.00		1½%
Cable Splicers	17.07	.72	3%+1.00		1½%
Zone 5: Over 50 miles from Post Office:					
Electricians	16.39	.72	3%+1.00		1½%
Cable Splicers	17.75	.72	3%+1.00		1½%
Electrical contracts under $20,000 in Zones 4 and 5	11.00	.72	3%+1.00		1½%

DECISION NO. CO80-5140 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$13.26	$1.195	.82	a	.035
ELEVATOR CONSTRUCTORRS' HELPERS	9.28	1.195	.82	a	.035
GLAZIERS	12.95				
IRONWORKERS:					
Structural; Ornamental and Reinforcing	12.35	1.04	1.25		.12
LATHERS	10.80				.01
MARBLE and TILE SETTERS, TERRAZZO WORKERS	12.40	1.10	1.15		.04
MILLWRIGHTS	12.41	1.00	.85		.19
PAINTERS:					
Brush and Roller Painters; Tapers and Hand Texture Men:					
Zone 1: 0-20 miles	10.79	.95	.70		.04
Zone 2: 20-35 miles	11.79	.95	.70		.04
Zone 3: 35 miles and over	12.57	.95	.70		.04
Tapers using Automatic tools, Spray Painters, and Sandblasters:					
Zone 1: 0-20 miles	11.54	.95	.70		.04
Zone 2: 20-35 miles	12.54	.95	.70		.04
Zone 3: 35 miles and over	13.32	.95	.70		.04
Paper and Vinyl Hangers; Steel Brush Painters:					
Zone 1: 0-20 miles	11.29	.95	.70		.04
Zone 2: 20-35 miles	12.29	.95	.70		.04
Zone 3: 35 miles and over	13.07	.95	.70		.04
Steel Spray Painters and Sandblasters:					
Zone 1: 0-20 miles	12.54	.95	.70		.04
Zone 2: 20-35 miles	12.54	.95	.70		.04
Zone 3: 35 miles and over	13.82	.95	.70		.04
PLASTERERS	12.94				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Zone 1: 0-15 miles from Post Office	$13.32	.85	$1.15		.08
Zone 2: 15-20 miles from Post Office	14.89	.85	1.15		.08
Zone 3: 20-40 miles from Post Office	14.32	.85	1.15		.08
Zone 4: Over 40 miles from Post Office	15.345	.85	1.15		.08
ROOFERS	11.41	.59	.40		
SHEET METAL WORKERS	13.20	3%+.73	1.51		.10
SOFT FLOOR LAYERS:					
Las Animas and Otero Counties	11.18	.65	.75	.50	.10
Pueblo County	9.00	.40	.75	.30	.05
SPRINKLER FITTERS	14.30	.85	1.20		.08
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.10	1.15	.50	
Floor Grinders	9.70	1.10	1.15	.50	
Grinders	10.25	1.10	1.15	.50	

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
	ZONE 1	ZONE 2	ZONE 3	H & W	Pensions	Vacation	Education and or Appr. Tr.
Group 1	$ 5.50	$5.95	$6.40	.59	.70		.05
Group 2	8.65	9.10	9.10	.59	.70		.05
Group 3	8.93	9.38	9.38	.59	.70		.05
Group 4	9.15	9.60	9.60	.59	.70		.05
Group 5	9.20	9.65	9.65	.59	.70		.05
Group 6	9.45	9.90	9.90	.59	.70		.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
(Other than for work in Tunnels, Shafts, and Raises)	ZONE 1	ZONE 2				
Group 1	$ 9.75	$10.50	.93	$1.10	.55	.12
Group 2	10.10	10.85	.93	1.10	.55	.12
Group 3	10.45	11.20	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	10.90	11.65	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.90	10.65	.93	1.10	.55	.12
Group 2	10.25	11.00	.93	1.10	.55	.12
Group 3	10.35	11.10	.93	1.10	.55	.12
Group 4	10.60	11.35	.93	1.10	.55	.12
Group 5	10.75	11.50	.93	1.10	.55	.12
Group 6	11.15	11.90	.93	1.10	.55	.12

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman; Chainman; Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, track mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.35	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS Classifications

Group 1: Pickups; Tenders; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

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)).

ZONE DESCRIPTIONS

LABORERS

ZONE 1: that area encompassed by 0 to 30 driving miles from the Main Post Office in each of the following Cities:

Pueblo La Junta Trinidad

ZONE 2: that area encompassed by 30 to 70 driving miles from the Main Post Office in the Cities listed in Zone 1

ZONE 3: that area encompassed by 70 driving miles and over from the Main Post Office in the Cities listed in Zone 1

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:
Otero Pueblo

B. Portions of Las Animas County which are included within Zone 1, as follows:
All of Las Animas County lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West

C. Portions of Las Animas County which are included within Zone 2, as follows:
All of Las Animas County lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West

SUPERSEDEAS DECISION

STATE: MARYLAND

COUNTIES: ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND

DECISION NO.: MD80-3061

DATE: DATE OF PUBLICATION

Supersedes Decision No. MD79-3031 dated November 30, 1979 in 44 FR 69110

DESCRIPTION OF WORK: Building Construction (does not include single family houses and apartments up to and including 4-stories) and Heavy Construction Projects (does not include sewer and water lines)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.95	.85	.95		.02
BOILERMAKERS	13.475	1.275	1.00		.04
BRICKLAYERS	12.58	.90	.75		.07
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS & PILEDRIVERS:					
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 3 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):					
Carpenters & soft floor layers	12.06	.80	.70		.05
Millwrights	12.63	.80	.70		.05
Piledriver	12.33	.80	.70		.05

DECISION NO. MD80-3061

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS & PILEDRIVERS: CONT'D					
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford and Howard Counties:					
Carpenters, soft floor layers, resilient floor layers and pile drivers	11.70	.75	.69		.07
Millwrights	12.20	.75	.69		.07
CEMENT MASONS	10.00	.60	.55		.04
DIVERS AND TENDERS:					
Zone 1 - Anne Arundel County (the city of Annapolis and that portion of the county south and east of the following line beginning at Rte. 3 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):					
Divers	20.365	.80	.60		
(Depth rate: From 60' to 100' the diver shall receive an extra 50¢ per foot per day)					
Diver tenders	11.803	.80	.60		

DECISION NO. MD80-3061

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone 1 - From Baltimore City Hall to 25 miles	12.70	.90	3%+1.30		.5%
Zone 2 - Over 25 miles to 45 miles from Baltimore City Hall	12.95	.90	3%+1.30		.5%
Zone 3 - Over 45 miles from Baltimore City Hall	13.20	.90	3%+1.30		.5%
ELEVATOR CONSTRUCTORS					
Mechanics	12.24	1.195	.82	a+b	.035
Helpers	8.57	1.195	.82	a+b	.035
Helpers (Probationary)	6.12				
GLAZIERS	9.97	.80	1.53		.06
IRONWORKERS:					
Ironworkers, finishers, rodmen; pre-cast & pre-stress erectors	12.21	.90	1.95		.06
Fence Erectors	11.86	.90	1.95		.06
Skeeters	12.46	.90	1.95		.06
LABORERS, BUILDING:					
Common Laborers	8.45	.35	.60		.075
Power Tool Operators	8.55	.35	.60		.075
Pipelayers (concrete & clay)	8.65	.35	.60		.075
Wagon Drill Operator, Jackhammer Oper. (80 and over) Barco Tampers	8.70	.35	.60		.075
Plasterers Laborers	8.60	.35	.60		.075
Hod Carriers, Gunnite Nozzle and Gun Operator	8.85	.35	.60		.075
Burners (demolition)	8.95	.35	.60		.075
LABORERS, HEAVY:					
Laborers	7.40	.35	.60		.075
Power tool operators	7.50	.35	.60		.075
Pipelayers, Wagon drill operators, air track driller, burners (demolition)	7.90	.35	.60		.075
Jackhammer Operator - 80 lbs and over	7.65	.35	.60		.075

DECISION NO. MD80-3061

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.34		.35	e	.01
LEAD BURNERS	12.60	.65			.01
LINE CONSTRUCTION:					
Zone 1 - From Baltimore City Hall to 25 miles:					
Linemen, cable splicers, digging & equipment operator	14.20	.70	3%		
Winch trucks & trucks with pole or steel handling	9.51	.70	3%		
Trucks without winch	8.88	.70	3%		
Groundmen	8.95	.70	3%		
Zone 2 - From 25 miles to 45 miles from Baltimore City Hall:					
Linemen, cable splicers, digging and equipment operator	14.45	.70	3%		
Winch trucks & trucks with pole or steel handling	9.76	.70	3%		
Truck without winch	9.13	.70	3%		
Groundmen	9.20	.70	3%		
Zone 3 - Over 45 miles from Baltimore City Hall:					
Linemen, cable splicers, digging and equipment operator	14.70	.70	3%		
Winch trucks & truck with pole or steel handling	10.01	.70	3%		
Truck without winch	9.38	.70	3%		
Groundmen	9.45	.70	3%		
MARBLE SETTERS	12.58	.90	.75		.07
MASON TENDERS:					
Mason tenders	9.10	.30	.50		.075
Scaffold builders	9.35	.30	.50		.075

DECISION NO. MD80-3061

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller	9.90	1.10	.65		.09
Spackling, taping & wall covering	10.05	1.10	.65		.09
Spraying painting (except steel)	10.15	1.10	.65		.09
PLASTERERS	11.60	.60	.50		
PLUMBERS	12.12	.87	.99		.16
ROOFERS:					
Roofers, damp & waterproof workers	9.00	.60	.45		
Slate, tile, asbestos & asphalt shingle	9.45	.60	.45		
Precast slab & wood block layer	10.00	.60	.45		
SPRINKLER FITTERS:					
Baltimore City including a 10 mile radius beyond the city limits	13.40	.85	1.20		.05
Harford & Howard Counties and the remainder of Anne Arundel and Baltimore Counties	13.90	.85	1.20		.08
STEAMFITTERS	13.12	.87	1.04		.16
TILE & TERRAZZO WORKERS	10.16	.90	.50		.04
TILE, MARBLE & TERRAZZO FINISHERS	8.05	.50	.25		
TRUCK DRIVERS:					
Goose-necks, drop frame trailers	9.40	1.05	.75	c+d	
All "A" Frames, winch trucks, fork lifts & trailers	9.20	1.05	.75	c+d	
Flat beds & pick ups	8.20	1.05	.75	c+d	
Euclid wagons & dumpsters	8.25	1.05	.75	c+d	
Dump trucks	7.94	1.05	.75	c+d	
TRUCK DRIVERS: EXCAVATION:					
Dump truck	8.64	1.05	.75	c+d	
Euclid wagons & dumpsters	8.95	1.05	.75	c+d	
Drop Frame, gooseneck & trailers	8.84	1.05	.75	c+d	
Pick-ups	8.43	1.05	.75	c+d	

DECISION NO. MD80-3061

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	12.33	1.00	1.05	f	.15
Group II	11.53	1.00	1.05	f	.15
Group III	10.94	1.00	1.05	f	.15
Group IV	10.37	1.00	1.05	f	.15
Group V	9.24	1.00	1.05	f	.15

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Operators handling or setting steel, stone prestressed concrete or machinery. Tower cranes.

Group II - Backfiller, backhoe, batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, crane, derrick boat, double concrete pump, dragline, Eimco type overhead loader, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, hoist (2 active drums or more), multiple conveyor, pile driving machine, power shovel, repair mechanic, shield, standard gauge locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whitley rig and bulldozers (D-9 or equivalent and above)

Group III - Asphalt spreader, bull float, Case type backhoe (with a front end bucket 1-1/4 yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), hi-lift fork lift, longitudinal float, narrow gauge locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used) and all bulldozers except D-9 or equivalent and above.

Group IV - Caterpillar type tractor, compressors, elevator operator, firemen, fuel truck, grease truck, grout pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, wellpoint system, and all power rollers except on hot mix asphalt.

Group V - Deck hands, oilers (all types)

DECISION NO. MD80-3061

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. Holidays: A through F.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 weeks paid vacation; 10 years of service - 3 weeks paid vacation, provided the employee has worked 125 days in the previous contract year.
d. Holidays: A through F plus the employee's birthday; the day after Thanksgiving Day and Christmas Eve (provided the employee has worked one day and has been available for work during holiday week).
e. Employee working Christmas Eve shall work 4 hours and receive 8 hours pay.
f. Holidays: A through F.

Unlisted classifications needed for work not included within the scope of the classificaions listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

[FR Doc. 80-32998 Filed 10-23-80; 8:45 am]
BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Allegheny
DECISION NO.: PA80-3071 DATE: Date of Publication
Supersedes Decision No. PA78-3078, dated October 20, 1978, in 43 FR 49205.
DESCRIPTION OF WORK: Residential construction consisting of 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.
Bricklayers	$13.85	.90	2.00		
Carpenters:					
(3 story walk-up with no elevator)	9.25	7%	5%	5%	1/2%
Residential 4 story walk-up or with elevator	12.80	6%	8%	10%	
Cement masons	11.32	.68	1.81		
Drywall Taper/Finishers	7.40				
Electricians (single or two family houses walk-up garden type apartments up to and including 4 stories)	9.15	.55	3%	.40	
Residential 4 story walk-up or with elevator	13.35	.55	3%+.50	.60	.10
Laborers	5.61				
Painters	6.05				
Plasterers	6.42				
Plumbers	13.98	1.00	1.60		.07
Roofers	7.21				
Sheet metal workers	9.32	.65	.85		.02
Soft floor layers	7.87				
Tile Setters	11.50	.60	1.40		
Truck Drivers	4.92				
Power Equipment Operators:					
Backhoe	11.975	.95	1.00		.09
Hi-Lift	11.975	.95	1.00		.09
Welder - Rate of Craft					

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii))."

federal register

Friday
October 24, 1980

Part III

Department of Energy

Federal Energy Regulatory Commission

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974; Notice of Existence and Character of Systems of Records

AGENCY: Federal Energy Regulatory Commission.

ACTION: Publication of existence and type of systems of records.

SUMMARY: The Federal Energy Regulatory Commission, under the requirements of the Privacy Act of 1974, publishes a listing of and description of the systems of records currently maintained by it.

FOR FURTHER INFORMATION CONTACT: Daria M. Stec, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 3305, Washington, D.C. 20426, (202) 357-8093.

SUPPLEMENTARY INFORMATION:

A. *Background:* The Privacy Act of 1974, Pub. L. No. 93-579, 5 U.S.C. § 552a, requires that each agency publish at least annually a notice of the existence and character of each "system of records," as defined in 5 U.S.C. 552a(a)(5), which the agency maintains. Such notice is to contain for each system of records a description of the name; location; categories of individuals on whom the records are maintained; the categories of records; each routine use of the records, as defined in 5 U.S.C. § 552a(a)(7); the policies and practices governing storage, retrievability, access controls, retention, and disposal of the records; the title and business address of the agency official responsible for the system of records; agency procedures for notification, access, and content of the records in each system; and the categories of the sources of the records in each system. 5 U.S.C. § 552a(e)(4). Pursuant to this requirement, the Federal Energy Regulatory Commission (Commission) publishes this listing of systems of records.

The Commission was created under the Department of Energy Organization Act of 1977, Pub. L. No. 95-91, 42 U.S.C. § 7101 et seq. Effective October 1, 1977, the Commission assumed most responsibilities within the jurisdiction of the Federal Power Commission, and acquired jurisdiction over some matters from the Interstate Commerce Commission.

Notice is hereby given that the Federal Energy Regulatory Commission adopts the notice of its systems of records as set forth below. This notice incorporates, with appropriate changes, those systems of records which were maintained by the Federal Power Commission and continue to exist within the Federal Energy Regulatory Commission. Not included in this notice are those systems of the Federal Power Commission which are no longer maintained, and those systems relating to personnel matters which were transferred to the Department of Energy. In addition, records which the Commission maintains which are considered by the Commission to fall outside of the requirements of the Privacy Act are not included in this notice.

The Commission's authority for this notice and the systems of records maintained by it is found in section 552a(e)(4) of the Privacy Act of 1974; section 309 of the Federal Power Act, as amended (49 Stat. 858-859), 16 U.S.C. § 825h; section 16 of the Natural Gas Act, as amended (52 Stat. 830), 15 U.S.C. § 717o; and the Department of Energy Organization Act, 42 U.S.C. § 7172(a)(2).

Kenneth F. Plumb,

Secretary.

B. *Systems of Records:* The Commission maintains, as of September 15, 1980, 12 systems of records under the Privacy Act of 1974. These systems, and their corresponding designator, are set forth in the following table.

Title	Designation
Regulatory Evaluation and Docketed Information System (READI).	FERC-1
Appeals, Grievances, and Complaints Records.	FERC-2
Applications for Interlocking Directorates Under the Federal Power Act, Public Files.	FERC-3
Applications For Interlocking Directorates Under the Federal Power Act, Security Files.	FERC-4
Biographical Material on Chairmen, Vice Chairmen and Commissioners of the Federal Energy Regulatory Commission.	FERC-5
Biographical Material on Commissioners and Key Staff Members of the Federal Energy Regulatory Commission.	FERC-6
Congressional Correspondence File, Office of Electric Power Regulation.	FERC-7
Congressional Correspondence File, Office of the Executive Director.	FERC-8
Correspondence File, Office of Pipeline and Producer Regulation.	FERC-9
Employee Conduct Records	FERC-10
Mailing List for Information Concerning Applications for Interlocking Directorates.	FERC-11
Mailing List for Official Publications	FERC-12

C. *Listing of Current Systems:* The following is a description of the name, system location and categories of records maintained for the 12 systems listed above. In addition to these particulars, there is given relevant information as to the categories of individuals covered in the system, authority to maintain the system, policies respecting the storage, retrieval, access retention and disposition of records in the system, system managers, relevant procedures for use of the system, and the sources of information stored in the systems.

Where the term "Commission" is used, it refers to the Federal Energy Regulatory Commission unless the term references records which date prior to October 1, 1977, in which case it refers to the Federal Power Commission.

FERC-1

SYSTEM NAME:

Regulatory Evaluation And Docketed Information System (READI).

SYSTEM LOCATION:

The system is located at the Department of Energy's computer facilities, Washington, D.C. and Germantown and Rockville, Maryland, and as leased from Boeing Computer Services, McLean, Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Energy contact persons; Commissioners; Administrative Law Judges; attorneys; project managers; technical, environmental and other Commission staff personnel associated with cases before the Commission; parties of record; and parties to be advised of proceedings. With respect to information concerning these individuals, only their names, titles, business addresses, business telephone numbers, relationship to a particular proceeding, and time expended by FERC personnel on that proceeding are entered.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information regarding the stages a docketed proceeding passes through as it is reviewed by Commission personnel. The information in the system of records includes the names of the individuals indicated above, including the names of Commission personnel responsible for various processing stages of a proceeding. The system indicates which processing stage a proceeding has reached and which Commission personnel are presently assigned to a proceeding. A case-weighing function is used to facilitate allocation of manpower and assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records and information in the records may be used by authorized

Commission personnel to identify all docketed proceedings pending before the Commission; to indicate the current processing stage of a proceeding; to enable management to inventory proceedings by stage of processing; to identify staff personnel responsible for particular proceedings or parts of proceedings; to monitor and analyze the productivity of the Commission staff; to allocate manpower and make assignments; to identify the organizational unit responsible for a given proceeding; to identify general classes of proceedings in order to expedite their processing; and to produce management reports for agency-wide distribution, including responses to general requests for statistical information (without personal identifiers of individuals) under the Freedom of Information Act and responses to inquiries from members of Congress, other federal agencies, the press and the public. In addition, the system is used as a data source for management information, for production of summary statistics and analytical studies in support of the function for which these records are collected and maintained, or for related personnel management functions or manpower studies compiled by the staff or a contractor of the Commission; or by members of advisory committees created by the Commission or the Congress to render advice and recommendations to the Commission or the Congress. These uses are solely in connection with official designated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

The records of FERC–1 are maintained on magnetic tape, computer disk files and punch cards.

RETRIEVABILITY:

Records are retrieved by identifying elements (e.g., docket number, docket name, type of filing), by Commission staff members (e.g., Commissioner, Administrative Law Judge, attorney, etc.), applicant name, or applicant contact.

SAFEGUARDS:

The records of FERC–1 are stored in a secured computer facility and access is limited to select authorized users.

RETENTION AND DISPOSAL:

The records are maintained for each proceeding in an "active file" until the proceeding has been terminated. The records are then transferred to a history file for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Federal Energy Regulatory Commission, Room 9106, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All requests to determine whether this system contains a record pertaining to a requesting individual should be made in accordance with the Commission's Rules of Practice and Procedure, 18 CFR section 3b.220(a). Individuals should provide the appropriate identifying information as required by 18 CFR section 3b.220(b).

RECORD ACCESS PROCEDURES:

Requests for access to records in this system should be made in accordance with 18 CFR section 3b.221. Individuals should provide the appropriate identifying information as specified in 18 CFR section 3b.222.

CONTESTING RECORD PROCEDURES:

Requests to amend records should be made in accordance with 18 CFR section 3b.224.

RECORD SOURCE CATEGORIES:

Records of FERC–1 are obtained through public filings with the Commission, individuals and persons covered by the records, and the Commission itself.

FERC–2

SYSTEM NAME:

Appeals, Grievances and Complaints Records—FERC.

SYSTEM LOCATION:

Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Office of the Assistant Director, Office of Electric Power Regulation, 400 First Street, N.W., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for FERC employment, current and former FERC employees, and annuitants who appeal from a determination made by an official of the FERC or the Office of Personnel Management to the Office of Personnel Management, a board to adjudicate appeals, or to the FERC.

CATEGORIES OF RECORDS IN THE SYSTEM:

As such, the system contains information and files on grievances under negotiated grievance systems and documents relating to a decision or determination made by the Commission or the Office of Personnel Management which affects an individual employee, or prospective employee because of an adverse action or other appeal under applicable Office of Personnel Management regulations, classification appeals, performance rating appeals, Fair Labor Standards Act complaints, grievances and complaints brought under the Equal Employment Opportunity Act. This system of records includes counseling records, case disposition reports of the Office of Personnel Management, intraoffice and interoffice communications, schedules, tabulations, lists, organizational charts which contain personal information, and records of relevant Federal court cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); and the applicable sections of Title 5 of the United States Code and the Office of Personnel Management regulations promulgated thereunder.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to adjudicate the appeal, complaint, or grievance; to respond to a request from a Member of Congress regarding the status of an appeal, complaint, or grievance; to provide information to the public on the decision of an appeal, complaint, or grievance as required by the Freedom of Information Act; to disclose to a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information if necessary in order to obtain information relevant to an FERC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefit; to disclose relevant information to a Federal agency in response to requests involving the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or issuance of a license, grant or other benefit by the requesting agency; to serve as a data source for disciplining the individual or other FERC employee in the event that this record system indicates a violation of law, executive order or regulation; as a data source for management information for production of summary descriptive statistics and analytical studies in

support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies compiled by the staff or contractor of the Commission. The system is also used by the Office of Personnel Management or the General Accounting Office as a data source during the course of onsite inspections or audits of Commission operations. The disclosure (of information) may be made to a member of Congress from the record of an individual in response to a written request from the Member which is made at the request of the individual who is the subject of the record. In the event that a system of records maintained by the FERC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system or records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by the name of individuals.

SAFEGUARDS:

The records are maintained in metal file cabinets with manipulation-proof combination locks. Access to these files and combinations is limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

After a final decision on a particular case is reached by the Commission or other decisional authority, all records pertaining to that case are maintained in the Office of Executive Director as a closed file. If a Commission decision is not appealed to the Office of Personnel Management or other appropriate appeal board, the records are maintained for no more than two years and are transferred to the National Personnel Records Center, St. Louis, Missouri, where they are retained for at least seven years. Commission Equal Employment Opportunity Counselors maintain for one year case records which have not been a basis of an EEO complaint. The disposition of these records is handled pursuant to applicable GSA regulations and applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All requests to determine whether this system contains a record pertaining to a requesting individual should be made in accordance with the Commission's Rules of Practice and Procedure, 18 CFR section 3b.220(a). Individuals should provide the appropriate identifying information as required by 18 CFR section 3b.220(b).

RECORD ACCESS PROCEDURES:

Requests for access to records in this system should be made in accordance with 18 CFR section 3b.221. Individuals should provide the appropriate identifying information as specified in 18 CFR section 3b.222.

CONTESTING RECORD PROCEDURES:

Requests to amend records should be made in accordane with 18 CFR section 3b.224.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; Federal Energy Regulatory Commission and Office of Personnel Management officials; affidavits or statements from individual; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; correspondence from special organizations or persons.

FERC-3

SYSTEM NAME:

Applications for Interlocking Directorates, Public Files.

SYSTEM LCOATION:

Office of Management Services, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Lansburgh's Warehouse, Office of Management Services, Office of the Executive Director, Federal Energy Regulatory Commission, 410 8th Street, N.E., Washington, D.C. 20426.

Division of Rates and Corporate Regulation, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 400 First Street, N.W., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and directors of related public utilities who, in accordance with Section 305(b) of the Federal Power Act, 16 U.S.C. section 825d(b), file for permission to hold the position of officer or director of more than one public utility, of a public utility and certain financial institutions authorized to market public utility securities, and a company supplying each utility with electrical equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes the following information for each individual: the name of the applicant; the docket number of the application; the position applied for; the date of the application and a copy of the application; the date of the public notice of the application and a copy of that notice; the date and copy of the order granting or deny the application; the date of any relevant hearing; and a copy of any petitions to intervene.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. section 825d(b); 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used as a file by staff of the Commission whose official duties involve the decision of whether to grant the application. The file is also used as a record of such proceedings. The records are available to the general public pursuant to the Freedom of Information Act, 5 U.S.C. section 552, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders on shelves.

RETRIEVABILITY:

These records are filed by docket number and are cross-referenced by the name of the individual whose application is involved.

SAFEGUARDS:

No measures are taken to prevent disclosure. The system contains only information available to the public.

RETENTION AND DISPOSAL:

These records are maintained for one year after the applicant dies or ten years

after notice of termination of his authorization. The disposition of these records is handled pursuant to applicable GSA regulations and/or applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Management Services, Office of the Executive Director, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this sytem of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained and the staff of the Commission.

FERC-4

SYSTEM NAME:

Applications for Interlocking Directorates, Security Files-FERC.

SYSTEM LOCATION:

Office of Management Services, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Division of Rates and Corporate Regulation, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 400 First Street, N.W., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and directors of regulated public utilities who, in accordance with Section 305(b) of the Federal Power Act, 16 U.S.C. § 825d(b), file for permission to hold the position of officer or director of more than one public utility, of a public utility and certain financial institutions authorized to market public utility securities, or of a public utility and a company supplying such utility with electrical equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes the following information for each individual: a copy of the application for an interlocking directorate, a copy of any Commission order granting or denying the application, a copy of the FERC staff recommendation, and other supplementary information prepared by Commission staff, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. section 825d(b); 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used as a working file by the staff of the Commission whose official duties require access in assisting the Commission in determining whether to grant the application. It is used as a record of such proceedings. In the event that a system of records maintained by the Commission to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders in metal file cabinets in a secured room.

RETRIEVABILITY:

These records are indexed by the names of individuals on whom they are maintained.

SAFEGUARD:

Access to, and use of, these records is limited to those persons whose official duties require such access. Personnel screening of these individuals is employed to minimize unauthorized disclosure and an accounting is made of removal of the records from the storage area.

RETENTION AND DISPOSAL:

These records are maintained for one year after the applicant dies or ten year after notice of termination of his or her authorization. The disposition is handled pursuant to applicable GSA regulations and/or applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Division of Rates and Corporate Regulation, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 400 First Street, N.W., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All requests to determine whether this system contains a record pertaining to a requesting individual should be made in accordance with the Commission's Rules of Practice and Procedure, 18 CFR section 3b.220(a). Individuals should provide the appropriate identifying information as required by 18 CFR section 3b.220(b).

RECORD ACCESS PROCEDURE:

Requests for access to records in this system should be made in accordance with 18 CFR section 3b.221. Individuals should provide the appropriate identifying information as specified in 18 CFR section 3b.222.

CONTESTING RECORD PROCEDURES:

Requests to amend records should be made in accordance with 18 CFR section 3b.224.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain and staff of the Commission.

FERC-5

SYSTEM NAME:

Biographical Material on Chairmen, Vice Chairmen and Commissioners—FERC.

SYSTEM LOCATION:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All past and present Commissioners and Chairman of the Federal Energy Regulatory Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains, where applicable, the following information on each individual: name, date nominated, date confirmed, date of designation, date of oath of office, term of office, home state, political affiliation, date first in attendance at a Commission meeting, date of expiration of term, date of resignation, and date deceased.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the staff of the Commission whose official duties require access to such information and the records are available to the general public pursuant to the Freedom of Information Act, 5 U.S.C. section 552.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders and in 3-ring binders in a metal file cabinet.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

No means are taken to prevent disclosure. The system contains only information available to the public.

RETENTION AND DISPOSAL:

These records are retained indefinitely and are updated periodically.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Official White House releases; newspapers; minutes of Commission meetings; and the personnel on whom the records are maintained.

FERC-6

SYSTEM NAME:

Biographical Material on Commissioners and Key Staff Members-FERC.

SYSTEM LOCATION:

Division of Public Information, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners and key staff members currently or formerly employed by the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains biographical material on Commissioners and key staff members of the Commission including: date and place of birth, marital status, number of children, educational background, past work experience, honors or awards, published materials, and military experience and honors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by authorized Commission personnel whose official duties require access in preparation of news releases to announce appointments of Commissioners and key staff members or promotions of key staff members, and are available to the general public pursuant to the Freedom of Information Act, 5 U.S.C. 552.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in folders in file cabinets.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

No measures are taken to prevent disclosure. The system contains only information available to the public.

RETENTION AND DISPOSAL:

These records are maintained indefinitely and updated periodically. Their disposition is handled pursuant to applicable GSA regulations and/or applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESSES:

Division of Public Information, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this sytem of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

FERC-7

SYSTEM NAME:

Congressional Correspondence Files-FERC.

SYSTEM LOCATION:

Office of Electric Power Regulation, Federal Energy Regulatory Commission, 400 First Street, N.W., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those members of the United States Congress who have corresponded with the Commission and who solicit data from the Office of Electric Power Regulation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains incoming correspondence from United States Congressmen referred to the Office of Electric Power Regulation with the Commission's replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. section 825h; 15 U.S.C. section 717o; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for use by the staff of the Commission whose official duties require record access.

They are used to assure a complete record of correspondence by the Commission with Congress relating to Office of Electric Power Regulation matters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in folders in file cabinets.

RETRIEVABILITY:

These records are indexed by the names of corresponding Congressmen.

SAFEGUARDS:

Access to the files is limited as required by the Privacy Act to the Commission staff who maintain these files.

RETENTION AND DISPOSAL:

These records are maintained indefinitely until the system manager determines that their usefulness to the Commission has ceased. Their disposition is handled pursuant to applicable GSA regulations and applicable internal Administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 400 Forst Street, N.W., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Corresponding Congressmen and Commission Staff who draft replies.

FERC-8

SYSTEM NAME:

Congressional Correspondence Files, Office of the Executive Director-FERC.

SYSTEM LOCATION:

Office of Management Services, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those current members of the United States Congress who have corresponded with the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains the incoming correspondence from United States Congressmen with Commission replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for use by the staff of the Commission whose official duties require access to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders in metal file cabinets.

RETRIEVABILITY:

These records are indexed by the names of the corresponding Congressmen.

SAFEGUARDS:

Access to the files is limited as required by the Privacy Act to the Commission staff who maintain these files.

RETENTION AND DISPOSAL:

These records are maintained for the length of time the corresponding Congressmen remain in office. The disposition of these records is handled pursuant to applicable GSA regulations and any applicable internal administraive directives.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Management Services, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Corresponding Congressmen and Commission staff who draft replies.

FERC-9

SYSTEM NAME:

Correspondence File—Office of Pipeline and Producer Regulation—FERC.

SYSTEM LOCATION:

Office of the Chief, Program Planning and Administrative Staff, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress and other individuals who have received correspondence drafted by the staff of the Commission's Communications and Administrative Branch, Program Planning and Administrative Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

This file contains copies of incoming inquiries and outgoing replies drafted by the staff of the Commission's Communications and Administrative Branch.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for use by the staff of the Commission whose official duties require access to the records. They are used to assure a complete record of correspondence by the Commission relating to Office of Pipeline and Producer Regulation matters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in notebook binders in shelving units.

RETRIEVABILITY:

These records are indexed by the names of the individuals who have received responses from the Commission.

SAFEGUARDS:

Access to the files is limited as required by the Privacy Act to the Commission staff who maintain these files.

RETENTION AND DISPOSAL:

These records are maintained for two years and their disposition is handled pursuant to applicable GSA regulations and applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Communications and Administrative Branch, Office of Pipeline Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Staff of the Commission and correspondents.

FERC-10

SYSTEM NAME:

Employee Conduct Records—FERC.

SYSTEM LOCATION:

Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former members of the Commission, applicants for Commission employment, current and former employees of the Commission, current and former special employees of the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records of the system contain a variety of information required by the reporting and enforcement provisions of the Commission's Standards of Conduct. The records may include: debt complaints; reports of misconduct; interpretation and advisory services; determinations of prohibited employment, financial interests, or activities and orders relating to the individual; limitations on work assignments due to requirements of the Standards of Conduct; other corrective or disciplinary actions based on violations of the Standards of Conduct; data documenting the reasons for actions or decisions affecting the individual; and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. Section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172 (a)(2); 44 U.S.C. section 3101; E.O. 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be used as follows: by the Commission and/or Office of Personnel Management in connection with counseling the individual, evaluating the individual's employment, financial interests, and other activities, and taking appropriate action to ensure compliance with the Commission's Standards of Conduct; by the Office of Personnel Management or the General Accounting Office as a data source during the course of on-site inspections or audits of Commission operations; to disclose to a Federal, state, or local agency maintaining civil, criminal, or othe relevant enforcement information or other pertinent information if necessary in order to obtain information relevant to an FERC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; to disclose to a Federal, state, or local agency in response to requests involving the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; to serve as a data source for disciplining the individual or other FERC employee in the event that this record system indicates a violation or potential violation of law, executive order, or regulation; by authorized Commission officials and contractors, as a data source for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; in response to inquiries of Congress made at the request of the individual who is the subject of the record; and in the event that a system of records maintained by the Commission to carry out its functions indicators a violation or potential violation of law, whether civial, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders, index cards, and in metal file cabinets with manipulation-proof combination locks.

RETRIEVABILITY:

Records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to, and use of, these records is limited to persons who official duties require such access. Personnel screening is employed to minimize unauthorized disclosure.

RETENTION AND DISPOSAL:

Within 15 days after an individual leaves the major organizational unit to which he or she is assigned, the records pertaining to that individual which have been maintained are transferred to the Office of Personnel Programs for review and consolidation with official records. Official records are disposed of two years after separation of the employee or five years upon approval of the Office of Personnel Management pursuant to applicable GSA regulations and applicable internal administrative directives.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All requests to determine whether this system contains a record pertaining to a requesting individual should be made in accordance with the Commission's Rules of Practice and Procedure, 18 CFR Section 3b.220(a). Individuals should provide the appropriate identifying information as required by 18 CFR Section 3b.220(b).

RECORD ACCESS PROCEDURE:

Requests for access to records in this system should be made in accordance with 18 CFR Section 3b.221. Individuals should provide the appropriate identifying information as specified in 18 CFR Section 3b.222.

CONTESTING RECORD PROCEDURES:

Requests to amend records should be made in accordance with 18 CFR Section 3b.224.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the individual on whom the record is maintained or derived from information which he or she supplied; and from Commission officials.

FERC-11

SYSTEM NAME:

Mailing List for Information Concerning Applications for Interlocking Directorates—FERC.

SYSTEM LOCATION:

Registry and Service Branch, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties interested in applications for interlocking directorates under the Federal Power Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes the name and address of each individual who receives information concerning interlocking directorate applications to the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. Section 825h; 42 U.S.C. Section 7172(a)(2); 44 U.S.C. Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the staff of the Commission whose official duties require access to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on index cards in a metal index card cabinet.

RETRIEVABILITY:

These records are filed by docket number and are cross-referenced by the name of the individual on whom they are maintained.

SAFEGUARDS:

Access to the files is limited as required by the Privacy Act to the Commission staff who maintain these files.

RETENTION AND DISPOSAL:

These records are maintained indefinitely and are periodically updated.

SYSTEM MANAGER(S):

Registry and Service Branch, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

FERC-12

SYSTEM NAME:

Mailing List for Official Publications—FERC.

SYSTEM LOCATION:

Registry and Service Branch, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officials of privately and publicly owned utilities, independent producers, cooperatives, and licenses and others who, upon request, receive official documents of the Commission, including rulemakings, notices, orders, opinions, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains the name and address of each individual who receives official Commission publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. section 717o; 16 U.S.C. section 825h; 42 U.S.C. section 7172(a)(2); 44 U.S.C. section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by the staff of the Commission whose official duties require access in order to mail documents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on Cheshire Cards (IBM-type cards), processed from Cheshire addressograph equipment, and are stored in metal file cabinets.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to the files is limited as required by the Privacy Act to the Commission staff who maintain these files.

RETENTION AND DISPOSAL:

The records are maintained indefinitely and are periodically updated.

SYSTEM MANAGER(S) AND ADDRESS:

Registry and Service Branch, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

NOTIFICATION PROCEDURE:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD ACCESS PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

CONTESTING RECORD PROCEDURES:

All inquiries and requests relating to this system of records should be addressed to the system manager of the system.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

[FR Doc. 80-33127 Filed 10-23-80; 8:45 am]
BILLING CODE 6450-85-M

federal register

Friday
October 24, 1980

Part IV

Department of Energy

Federal Energy Regulatory Commission

Rulemaking Calendar for Period of October 1 Through December 31, 1980

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Ch. I

Rulemaking Calendar

AGENCY: Federal Energy Regulatory Commission.

ACTION: Publication of Calendar of pending informal rulemakings of general applicability, for the October 1, 1980–December 31, 1980 period.

SUMMARY: The Federal Energy Regulatory Commission hereby publishes its Rulemaking Calendar for the Fourth quarter of 1980. The Calendar provides a brief description of the Commission, its statutory obligations and jurisdiction, and a summary of the informal rulemaking proceedings of general applicability now pending before the Commission. Each summary includes the title of the rulemaking proposal; its docket number; a description of its goals and purposes; its legal basis; the dates for the completion or expected completion of each stage in the rulemaking process; the **Federal Register** citations for completed stages of each proceeding, to refer the reader to the text of each notice of inquiry, notice of proposed rulemaking, interim rule, or final rule which has been published in the **Federal Register**; the agency official in charge of each proposal; and that official's title, phone number, and address. Additional data, relating to the type of Commission records available to the public and other matters of public interest, are also set forth.

COMMENT DATE: As stated on the notices of proposed rulemakings.

FOR FURTHER INFORMATION CONTACT: Kenneth Levine, Director, Office of Congressional, Consumer and Public Affairs, Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8373, or Laurent Low, Office of Congressional, Consumer and Public Affairs, Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8370.

Kenneth F. Plumb,

Secretary.

Federal Energy Regulatory Commission, Washington, D.C.

The Rulemaking Calendar is designed to provide the public with an overview of the FERC's rulemaking efforts. It is another aspect of the Commission's continuing program to support the President's fundamental goal of making government regulatory programs more effective and responsible. This publication is entirely separate and is more detailed than the government-wide Regulatory Calendar published periodically by the U.S. Regulatory Council.

In an attempt to assist participation in the decision-making process of the Commission, we have made a sincere attempt to project, as realistically as possible, approximately when each rulemaking will be acted upon. The reader should be cautioned that the proposed dates for action are just that—*proposed.* They are subject to change, but we are attempting to give you our best current assessment of when various steps in the rulemaking process are likely to occur. We have also listed the name, address, and phone number of the attorney responsible for each rulemaking so that individual can be contacted should additional information be desired concerning the present status of a particular matter.

There are some rulemakings in various stages of completion that are not listed in the Rulemaking Calendar. We have attempted to identify in this summary only those considered to be of major or general interest.

I hope that you will find this publication to be of real value and that it will help you to more fully understand the activities of the Commission.

Charles B. Curtis,

Chairman.

RULEMAKING CALENDAR

Table of Contents

Docket Number and Title

Abbreviations
Introduction

Regulations Under the Rules of Practice and Procedures

Introduction
RM78–15, Rules Relating to Investigations
RM78–22, Revision of FERC Rules of Practice (Pt. 4), Freedom of Information Act
RM78–22, Revision of FERC Rules of Practice (Pt. 6), Conflict of Interest
RM78–22, Revision of FERC Rules of Practice (Pt. 7), Procedures to Expedite Trial-Type Hearings
RM78–22, Revision to FERC Rules of Practice (Pt. 9), Determine DOE's Termination of Funding
RM79–65, Revision to FERC Rules of Practice (Pt. 10), Declaratory Orders Under the NGPA
RM80–60, Revision of FERC Rules of Practice (Pt. 1), Separation of Functions and Ex Parte in Rules for Trial-Type Proceedings

Electric and Hydroelectric Regulations

Introduction
RM80–31, Safety of Water Power Projects and Project Works, Review of Part 12 of the Regulations
RM80–39, Regulations Governing Major Unconstructed Projects, Phase 3
RM80–65, Exemption for Small Hydroelectric Power Plants of 5 Mw or Less
RM79–28, Amendments to Pt. 32 of the Regulations Under FPA; Interim Regulations Governing Interchange Energy Transmission Rates for Section 202(c) Emergencies
RM79–49, Calculation of Cash Working Captial Allowance for Electric Utilities
RM79–52, Continuance of Service
RM80–36, Rates of Return—Electric
RM80–55, Revisions to Form FPC–1, Annual Report for Electric Utilities, Licensees, and Others (Class A & B)
RM80–40, Federal Rates and Power Marketing
RM79–79, Price Squeeze
RM79–80, Price Squeeze

Regulations Under the Natural Gas Policy Act

Introduction
RM79–21, Alternative Fuel Cost Ceilings for Incremental Pricing, Order 81
RM79–32, Procedures for NGPA Adjustments of Rates and Orders Issued by FERC (Pt. 2)
RM79–47, State-wide Exemption from Incremental Pricing
RM79–67, Procedures Governing Applications for Special Relief under Sections 104, 106, and 109 of NGPA
RM79–76, High Cost Natural Gas produced from Tight Formations, Order 99
RM80–6, Pricing of Pipeline and Affiliate Production under the Natural Gas Act, Order 98
RM80–7, Final Rule Governing Maximum Lawful Prices for Pipeline Distribution or Affiliate Production, Order 58
RM80–28, Permanent Rule Defining Agricultural Uses Exempt from Incremental Pricing under NGPA, Order 83
RM80–38, High Cost Gas: Deep Water
RM80–48, Definition of Agricultural Uses in Section 282.202(A) of the Commission's Regulations on Incremental Pricing
RM80–50, High-Cost Natural Gas—Production Enhancement Procedures
Introduction to Regulations under NGPA Section 110
RM80–21, NGPA Section 110, State Severance Taxes
RM80–47, Interim Regulations Implementing NGPA/Section 110 (Subpart K, Pt. 271) "Production-Related Costs", Order 94
RM80–72, NGPA Section 110, Production Cost Rule
RM80–73, NGPA Section 110, Gathering Allowance
RM80–74, NGPA Section 110, Compression Allowance
RM80–76, New Filing Requirements
RM80–10, Rule Required under Section 202 of NGPA—Phase II Incremental Pricing Program, Order 80

Regulations Under the Natural Gas Act

Introduction
RM78–4, Compensation Provisions on Curtailment Plans
RM79–34, Transportation Certificates for Natural Gas Displacement of Fuel Oil, Order 30
RM79–63, Fees Applicable to Natural Gas Pipeline Companies

RM80-56, Revisions to Form FPC-2, Annual Report for Natural Gas Companies (Class A and B)

Miscellaneous Regulations

Introduction
RM80-42, Tax Normalization
RM79-69, National Environmental Policy Act
Appendix A

Abbreviations

The following abbreviations appear in the FERC Rulemaking Calendar:

APA—Administrative Procedure Act of 1946
ALJ—Administrative Law Judge
C—Completion date
C.F.R.—Code of Federal Regulations
DOE—Department of Energy
DOE Act—Department of Energy Organization Act of 1977
Fed. Reg.—Federal Register
FERC—Federal Energy Regulatory Commission
FOIA—Freedom of Information Act of 1966
FPA—Federal Power Act of 1935
FPC—Federal Power Commission
ICA—Interstate Commerce Act
ICC—Interstate Commerce Commission
NEA—National Energy Act of 1978
NEPA—National Environmental Policy Act of 1969
NGA—Natural Gas Act of 1938
NGPA—Natural Gas Policy Act of 1978
NGPA—Section 102: New Natural Gas
NGPA—Section 103: New Onshore Production Wells
NGPA—Section 104: Gas Dedicated to Interstate Commerce Before the Date of Enactment
NGPA—Section 105: Gas Sold under Existing Intrastate Contracts
NGPA—Section 106: Sales of Gas made under "Rollover" Contracts
NGPA—Section 107: High Cost Natural Gas
NGPA—Section 109: Other Categories of Natural Gas
NGPA—Section 110: Treatment of State Severance Taxes and Certain Production-Related Costs
NOPR—Notice of Proposed Rulemaking
NOI—Notice of Inquiry
OCSLA—Outer Continental Shelf Lands Act
PIFUA—Powerplant and Industrial Fuel Use Act of 1978
PURPA—Public Utility Regulatory Policies Act of 1978
T—Target date
TBD—To be determined
U.S.C.—United States Code

Introduction

The Federal Energy Regulatory Commission (FERC) is an independent federal agency authorized to regulate the wholesale or national aspects of some of our most important energy industries. The FERC sets rates and charges for interstate transportation and sale of natural gas, transmission and sale of wholesale electric power, and interstate transportation of oil by pipeline; the FERC also licenses most private, State and local hydroelectric projects and all interstate natural gas pipeline facilities. In addition, the FERC reviews certain actions taken by the Department of Energy.

The FERC was created by the Department of Energy Organization Act in 1977. The purpose of the Act was to bring all the energy-related federal agencies together into a new, cabinet-level department. That law abolished the Federal Power Commission (FPC) and established a new independent regulatory agency within DOE, the FERC, with slightly different and expanded functions.

In 1920, Congress created the FPC, the forerunner of the FERC, to oversee the development of the Nation's waterways and to license private, State and local hydroelectric projects. Until that time, the Congress had itself acted on each application to build a dam and hydroelectric generating station.

The FPC's responsibilities under the Federal Power Act were expanded in 1930 to cover interstate transmission and sale of wholesale electric power. In 1938, enactment of the Natural Gas Act added regulation of the rates and services of interstate natural gas pipelines to the FPC's jurisdiction.

Regulation of the rates and services of interstate oil pipelines under the Interstate Commerce Act which had been the responsibility of the Interstate Commerce was added to the FERC's jurisdiction when it was created in 1977. The Natural Gas Policy Act and the Public Utility Regulatory Policies Act, both parts of the National Energy Act of 1978, significantly expanded the FERC's responsibilities in the areas of natural gas and electric utility regulation.

The FERC issues and enforces general regulations putting into effect the laws passed by Congress which govern the industries under the Commission's jurisdiction. The Commission also acts on specific cases when companies regulated by the FERC seek to adjust their rates and services or to obtain permission for construction of new facilities.

The Commission is made up of five members appointed by the President with the advice and consent of the Senate. One member is chosen by the President to serve as Chairman and is the chief administrative officer. Commissioners serve four-year terms. Because the FERC is an independent regulatory agency, the Commissioners, under ordinary circumstances, cannot be removed from office, and the FERC's actions are not subject to review by the Secretary of Energy or the President. Most Commission decisions, however, may be reviewed in the Federal Courts.

When Congress passes legislation to be carried out by federal agencies, it is the responsibility of the agencies to design regulations for compliance with the new law. This is because of the agencies' knowledge of the industries they regulate and of the needs of public they represent, knowledge that is necessary to design effective rules to resolve the legal and factual disputes that arise in regulation of complex industries.

Federal agencies develop regulations through a process known as rulemaking. General requirements for the rule making process are set out in the Administrative Procedure Act of 1946 (APA), which grew out of the need for uniform, government-wide rules to ensure due process and fair procedures to all parties in the rulemaking process.

At the FERC, the general procedures for informal rulemakings established by the APA are followed. This means that, unlike in formal rulemakings, the agency is not required to keep a verbatim record of the proceedings or to follow strict trial procedures.

The informal rulemaking process begins with either a Notice of Inquiry (NOI)—also known as an Advance Notice of Proposed Rulemaking—or a Notice of Proposed Rulemaking (NOPR). When there is some indication that new or changed regulations are needed, but the Commission is not entirely convinced, a NOI is issued soliciting public comment on whether regulations should be developed. When the Commission has already determined—often after a lengthy internal staff study and review process—that there is a need for new regulations or a change in existing regulations, proposed regulations are developed and issued as a NOPR. All Notices are published in the **Federal Register**, and the public is invited to comment.

The Commission often holds public hearings to provide an opportunity for dialogue between Commissioners and Commission staff and representatives of regulated companies and the general public. When the Commission initiates a major rulemaking having a broad impact, public hearings are, insofar as possible, held around the country or in regions particularly affected so that the widest range of comments can be obtained.

Once the comments have been analyzed and evaluated by FERC staff, the Commission will issue interim regulations if further comment and evaluation is necessary, or final regulations if the Commission is satisfied that the regulations carry out the law in the best possible manner. Interim and final regulations are also published in the **Federal Register** at least 30 days before the effective date. Parties to a particular proceeding may

file for rehearing on all or part of a Commission decision within 30 days from the date the decision is issued.

Final regulations are amended from time to time as the need arises. To amend regulations, the Commission follows the rulemaking process.

Introduction to Regulations Under the Rules of Practice and Procedure

It has always been the practice of federal agencies to set down in writing the manner in which their business is conducted. This is to ensure due process to all parties in agency proceedings and so that those without prior experience in agency business will not be unduly handicapped.

The Rules of Practice and Procedure set out step-by-step instructions for all agency procedures from applications to enforcement actions. They include, for example, time limits on various stages of longer proceedings, formats for official submissions, and rules to ensure that an opportunity is provided for representation of all interested parties in agency proceedings.

The FERC has undertaken a complete revision of its Rules of Practice and Procedure as part of a comprehensive effort to simplify and streamline regulatory processes. The FERC is now operating under rules of practice and procedure inherited from its predecessor-agencies, the Federal Power Commission and the Interstate Commerce Commission. Many of these rules were written in the 1950's and 60's or even earlier. The FERC intends to update, consolidate, and reorganize these rules, simplify them where possible, and state requirements more clearly where the rules are not specific enough to adequately inform those affected of what is required.

1. Title: Rules Relating to Investigations

Docket Number RM78-15

Description: Soon after the FERC was created, the Commission set up an Office of Enforcement to investigate alleged violations of the statutes administrated by the Commission and to seek penalties when a violation can be proven.

Interim rules setting out the practices and procedures to be followed by the Office of Enforcement in conducting investigations were issued in June of 1979.

The new proposed rules will set out procedures for both formal and preliminary investigations. Matters such as issuing and serving subpoenas, taking testimony, rights of witnesses, restrictions on disclosure of information gained in investigations, and authority of investigating officers will be covered. The rulemaking will also articulate the FERC's policy on consent agreements.

Legal basis: FPA, NGA, ICC, OCSLA, Mineral Leasing Act, DOE Act, NGPA, PURPA, PIFUA, APA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	3/20/79 C	44 FR 21586 4/10/79.	'79:1st.
Interim regulations issued.	6/14/78 C	44 FR 27174 6/23/78.	'78:2d.
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202)357-8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

2. Title: Revisions of FERC Rules of Practice (Pt. 4), Freedom of Information Act

Docket Number RM78-22

Description: The FOIA was enacted in 1966 to provide for disclosure of information used in decisionmaking by government bodies in order to make it easier for citizens and citizen groups to participate in the process of government, and to make government more accountable.

Much of the information used by the Commission in reaching decisions is readily available to the general public through the Division of Public Information of the Office of Congressional, Consumer & Public Affairs. A detailed list of the kinds of FERC records now available to the public is included in FERC regulations in § 1.36 of Title 18 of the Code of Federal Regulations and is reproduced in the appendix to this publication.

When a document contains proprietary or sensitive information or certain data relating to rulemakings or cases in progress, it must be screened by Commission legal staff to determine which information can be released and which must be withheld. This procedure can be costly and time-consuming, but upon receipt of a legitimate request for such documents, Commission staff will screen and approve for release all information that may properly be released. Any decision by FERC staff to withhold information may be appealed to the Chairman of the Commission and, in turn, to the Federal Courts.

This rulemaking sets up procedures for reviewing FOIA requests and defines specifically which information is exempt from disclosure requirements.

Legal basis: FOIA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202)357-8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

3. Title: Revision of FERC Rules of Practice (Pt. 6) Conflict of Interest

Docket Number RM78-22

Description: These rules define the kinds of relationships between FERC staff and parties to FERC proceedings that are proper and permissible and what prior interests or commitments on the part of FERC employees constitute grounds for disqualification from participation in a particular proceeding.

"Conflicts of interest" can create serious ethical and legal problems and these rules are necessary to ensure that Commission employees will not be influenced by interests which do not coincide with their professional responsibilities such as the possibility of outside remuneration or possible future employment.

Legal basis: DOE Act and APA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357-8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

4. Title: Revisions of FERC Rules of Practice (Pt. 7) Procedures to Expedite Trial-Type Hearings

Docket Number RM78-22

Description: When important matters of fact and law are at issue, as in many contested rate, license or certificate cases before the Commission, the Commission may set the matter for hearing before an administrative law judge. The judge conducts an adjudicatory or trial-type hearing on these disputed issues in which all parties have an opportunity to present evidence and to cross-examine witnesses for other parties. A verbatim record of the entire hearing is kept. The judge, after reviewing all testimony and evidence in the record, makes an initial decision on how the case should be disposed. This decision, supported by extensive citations to the record, is transmitted to the Commission for consideration and final decision.

These hearings are costly and time-consuming, drawing heavily on Commission resources while the Commission must deal with an increasing workload. Any delay also contributes to uncertainty on the part of regulated companies and their customers while they wait for final rates or decisions on the construction of facilities.

These regulations are part of a comprehensive effort to streamline the Commission's trial process and make it more efficient. This rulemaking will consolidate and update the Rules of Practice and Procedure inherited from the ICC governing trial-type hearings in oil pipeline cases and

FPC rules covering hearings in natural gas and electric cases

Legal basis: DOE Act, FPA, NGA, NGPA, ICA, PURPA, APA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	11/5/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357–8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

5. Title: Revision to FERC Rules of Practice (Pt. 9) Determine DOE's Termination of Funding

Docket Number RM78–22

Description: Under the terms of the DOE Act, federal funding of State energy-related programs must be terminated if the State is found to discriminate against persons or groups in its administration of the program. If, after a preliminary investigation, a finding of discrimination is made, the matter is set for a trial-type hearing before an FERC administrative law judge. The FERC Office of Administrative Law Judges conducts all trial-type, on-the-record proceedings on behalf of the Department of Energy when such proceedings are required in DOE regulatory processes. This rulemaking sets up procedures for trial-type hearings to determine whether funding should be terminated when it is alleged that a State is discriminating in its administration of federally-funded energy programs.

Legal basis: DOE Act and APA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357–8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

6. Title: Revision to FERC Rules of Practice (Pt. 10) Declaratory Orders Under the NGPA

Docket Number RM79–65

Description: A declaratory order provides an interpretation of the provisions of a law and generally clarifies questions of agency jurisdiction or the scope of statutory requirements or exemptions. Declaratory orders are usually issued in response to a petition filed by an affected person, governmental unit, interest group or business concern because of uncertainty about whether certain activities are covered by the law or about the nature of response required.

The NGPA requires that procedures be set up to be followed by parties seeking interpretations of the provisions of that law. This rulemaking adds these procedures to the Rules of Practice and Procedure.

Legal basis: FERC Rules of Practice.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	N/A		
Interim regulations issued.	8/11/79 C		'79:3rd.
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357–8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

7. Title: Revision of FERC Rules of Practice (Pt. 1) Separation of Functions and Ex Parte in Rules for Trial-type Proceedings

Docket Number RM80–60

Description: FERC staff represent the public in trial-type hearings held in contested FERC rate and licensing cases. They must thoroughly research issues, study testimony and develop a defensible position to advance the public interest. However, because a strong advocacy position must often be taken, the same staff member cannot be expected to "step back" and objectively advise the Commission regarding the administrative law judge's initial decision in a case in which that staff member participated.

For this reason, the FERC and other governmental agencies develop rules requiring separation of the litigating and decisionmaking agency functions. In effect, this means that staff members participating in trial-type hearings cannot advise the Commission when it subsequently reviews the ALJ's ruling on that case, and cannot even communicate with "decisional employees"—other staff members engaged in advising the Commission on that case—about the merits or issues in the case.

So that all parties to a proceeding have equal opportunity to present their point of view, private communications between any staff member working on a trial-type case and a representative of any of the parties are forbidden. These rules are known as *"ex parte"* rules and generally bar all informal, off-the-record communications on the case between FERC staff handling the case and any interested person outside the agency.

This rulemaking will consolidate the rules on separation of functions and *ex parte* communications in the Rules of Practice and Procedure inherited from the FPC and ICC which govern trial-type proceedings.

Legal basis: APA section 554 and 557.

Stages of completion	Date	FR citation	Calendar quarter
NOPR issued	5/23/80 T		'80:2nd.
Interim regulations issued.	N/A		
Order issued	10/1/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357–8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Introduction to Electric and Hydroelectric Regulations

Many local electric utilities do not own facilities to generate power and confine their operations to the distribution of electric power bought at wholesale from large investor-owned utilities or federal power marketing agencies. Other utilities that do own generating facilities must sometimes buy supplemental wholesale power on a regular basis or at times of greatest demand.

Under the Federal Power Act of 1935 (FPA), the FERC must set "just and reasonable" rates and service standards for these wholesale power transactions. The FERC regulates rates charged by 215 electric utilities for wholesale sales of electricity—about 13 percent of total annual sales of electricity in the U.S. Rates for retail sales to consumers are generally set by state regulatory agencies.

Electric rates are calculated to cover utilities' operating expenses, including expenses for fuel, the cost of building power plants and transmission systems, and a reasonable profit on stockholders' investment.

The Federal Power Commission, forerunner of the FERC, was originally created to oversee development of the Nation's hydroelectric power generation potential and to license non-federal hydroelectric powerplants on navigable waters. The Commission sets conditions in licenses to ensure protection of the environment, to maximize public access and usefulness to all interests, and to ensure public safety.

In 1978, Congress passed the Public Utility Regulatory Policies Act (PURPA), one of the five parts of the National Energy Act. The broad purposes of the law are to encourage energy conservation and efficient use of resources by public utilities; to encourage cogeneration and production of electric power by small producers using renewable resources; and to encourage rate reform at the retail level so that charges for electricity more

accurately reflect the actual cost of generating the electricity.

In PURPA, the Commission was directed to take a number of actions toward meeting these goals. The Commission is to conduct studies of the use of automatic adjustment clauses in electric ratemaking and their effect on utilities' use of resources and of the potential for conservation of energy yet to be realized by interconnecting electric utility systems. The Commission has already issued regulations to encourage cogeneration and small power production. Regulations have been issued requiring utilities to submit information on the cost of providing service and the first report is due in November of this year. In addition, a report on delays in processing wholesale electric rates increases at the FERC has been submitted to Congress by Chairman Charles B. Curtis.

8. Title: Safety of Water Power Projects and Project Works, Review of Part 12 of the Regulations

Docket Number RM80-31

Description: In April, 1977, the President directed the Federal agencies to review and strengthen Federal dam safety requirements and inspection programs. The revised requirements were to impose more stringent tests on structural integrity, improve procedures for dam inspection, protect those who work or spend leisure time in the vicinity of licensed projects, and to provide that emergency procedures to protect life and property in case of dam failure be filed with Federal agencies.

The FERC issues preliminary permits and licenses for private, state and local hydroelectric projects and conducts on-site inspections of all licensed projects every five years. Approximately 1000 dams are now under the Commission's jurisdiction. The Commission seeks to ensure dam safety and the preparation of adequate emergency procedures without imposing unnecessary regulatory burdens where no actual danger exists—i.e., at small projects where little water is impounded.

This rulemaking revises the Commission's existing regulations on dam safety, inspection procedures, and early warning and emergency procedures. The proposed regulations provide for inspection by independent consultants to supplement Commission inspections and, finally, provide for certain managerial improvements.

Legal basis: FPA section 10(c).

Major stages of completion	Date	FR citation	Calendar Quarter
NOPR issued	6/16/80 C	45 FR 41608 6/19/80.	'80:2nd.
Interim regulations issued.	NA		'80:4th.
Order issued	10/8/80 T		
Rehearing decision issued.	TBD		

Agency official: Glenn Berger, Staff Attorney (202) 357-8364, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

9. Title: Regulations Governing Major Unconstructed Projects, Phase 3

Docket Number RM80-39

Description: This rulemaking is the third phase of a comprehensive program to simplify and clarify the Commission's licensing procedures for hydroelectric power projects and proposes licensing reforms dealing with all "major" projects.

A major project is defined as having a generating capacity of more than 1.5 megawatts or 2,000 horsepower and (1) for which a dam must be constructed, or (2) which would require additions to an existing dam resulting in a significant increase in the water level of the reservoir, or (3) which would for other reasons have a significant impact on the environment.

The current regulations will be revised to explain more clearly what information must be submitted, to require only information that is necessary to make a decision on the application, to consolidate and simplify the format for submitting information, and to require a more detailed Environmental Report. The Commission is also revising its regulations under the National Environmental Policy Act to provide for a more detailed Environmental Report for major projects.

These regulations should encourage development of clean, safe and renewable hydropower resources by simplifying and expediting the licensing process.

Legal basis: FPA and PURPA section 405.

Major stages of completion	Date	FR citation	Calendar Quarter
NOPR issued	10/1/80 T		'80:4th.
Interim regulations issued.	NA		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Jim Hoecker, Staff Attorney (202) 357-9342, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

10. Title: Exemption for Small Hydroelectric Power Plants of 5 Mw or Less

Docket Number RM80-65

Description: This rulemaking—authorized by the recently-enacted Energy Security Act of 1980—will establish procedures for exempting certain non-controversial small hydroelectric power projects with 5 megawatts or less installed electric generating capacity from the FERC's licensing requirements and fees under the Federal Power Act. Exempting these facilities should encourage rapid development of the Nation's small hydro resources and will help the Commission better handle the numerous applications it has received for projects of this size. The rising cost of fossil fuels has made hydro power increasingly economical and has created a renewed interest in hydroelectric development.

Under the proposed procedures, owners of hydro projects at an existing dam or natural reservoir with a capacity of 5 megawatts or less can apply to the Commission for a licensing exemption. The FERC would be required to act within 120 days, or four months, or the exemption will be automatically granted. It currently takes about nine months to process even an uncontested small hydro license application.

Approximately two-thirds of the preliminary permit applications now on file are for projects of five megawatts or less and these applicants could apply for this exemption. A preliminary permit is granted so that the applicant can conduct the studies necessary to decide if a project is feasible and whether to submit a full license application. The permit also assures the holder of priority in applying for a license.

Legal basis: Energy Security Act of 1980 section 408.

Major stages of completion	Date	FR citation	Calendar Quarter
NOPR issued	8/27/80 C	45 FR 53868 9/3/80.	'80:3rd.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Jim Hoecker, Staff Attorney (202) 357-9342, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

11. Title: Amendments to Pt. 32 of the Regulations Under FPA; Interim Regulations Governing Interchange Energy Transmission Rates for Section 202(c) Emergencies

Docket Number RM79-28

Description: Under the FPA and the DOE Act, the Economic Regulatory Administration of the Department of Energy can order electric utilities to transmit power across their power line network during emergencies so that electricity can be interchanged by utilities with excess generating capacity and other utilities suffering shortages and unable to supply customers. In some cases, the supplying utility is at a great distance from the buying utility and the power must be transmited across a number of utility systems, creating multiple interchange transactions.

This rulemaking establishes principles for setting rates for these transactions and provides that the FERC can, as authorized in the statute, impose a rate if the parties fail to agree on a rate for a particular interchange transaction. The regulations set a model rate which is based on the incremental transmission costs—extra costs associated with the particular interchange of electicity—plus a percentage of those costs which is added to provide a margin of profit.

Legal basis: FPA section 202(c), DOE Act.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	4/3/79 C	44 FR 21686 4/11/79.	'79:2nd.
Interim regulations issued.	N/A		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Jim Hoecker, Staff Attorney (202) 357-9342, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

12. Title: Calculation of Cash Working Capital Allowance for Electric Utilities

Docket Number RM79-49

Description: Electric utilities, like other businesses, must keep a certain amount of cash on hand to meet expenses that come due before the revenues to cover those expenses come in.

This working cash is considered for rate-making purposes as part of the rate base, or the value of facilities and other assets on which the Commission sets a percentage return for stockholders. In the past, the Commission has calculated the amount of working cash utilities should be allowed to include in the rate base by multiplying average daily operating expenses by 45 and substracting expenses for power purchased from other utilities. This method of calculating the allowance was based on the assumption that the average lag between expenses and receipt of revenues is 45 days.

The Commission has developed a formula to calculate the working cash allowance which yields a more precise approximation of the amount of cash actually needed. In this proposed rulemaking, the Commission is considering establishing this formula as the method for calculating cash working capital allowances for electric utilities. This approach may help avoid relitigation of this issue in every case.

Legal basis: FPA section 205.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	6/7/79 C		'79:2nd.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Bonnie Cord, Staff Attorney (202) 357-8152, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

13. Title: Continuance of Service

Docket Number RM79-52

Description: Section 206 of PURPA is intended to ensure that electric utilities are prepared to deal with emergencies and can provide continuous service to their customers. Toward this end, the Act requires that electric utilities report to the FERC any anticipated shortage of electricity which would affect wholesale customers. Such a shortage might be anticipated if, for example, there was a delay in bringing a new plant on line or if extreme weather conditions were forecast.

Utilities must also submit a contingency plan detailing actions to be taken in the event of a shortage to avoid disruptions in service. Contingency plans must seek to accommodate shortages with fair treatment of all customers whether served on a wholesale or a direct retail basis. This rulemaking sets out the reporting requirements for anticipated shortages and contingency plans.

Legal basis: FPA section 202, as amended by PURPA Section 206.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	3/26/80 C	45 FR 23684 4/18/80.	'80:1st.
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: Christine Benagh, Staff Attorney (202) 357-8446, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

14. Title: Rates of Return—Electric

Docket Number RM80-36

Description: Electric utilities finance construction in the same manner as other businesses, that is, with a mixture of borrowed and investor funds. In general, the ratepayers do not finance construction or system upgrading. For this reason, the utilities must be allowed a sufficient rate of return on investment so that investors can be attracted and capital for construction raised.

Many rate increases filed by electric utilities selling wholesale power are contested by customer utilities buying the power for resale to retail users. In order to determine an appropriate rate of return when the rate increase is contested, extensive evidence must be taken in a trial-type hearing before an administrative law judge. The rate of return issue, perhaps the most time consuming element of a rate case, must essentially be considered anew in each contested rate case.

Although the capital structure, business organization and financial condition of electric utilities vary widely, there are enough similarities to suggest that a more general approach to rate of return questions might be possible.

This rulemaking undertakes to evaluate the various alternatives available to the Commission to expedite consideration of rate of return issues in electric rate cases. The regulations produced in this proceeding could substantially reduce the time necessary to resolve rate cases, cutting the length of time that electric utilities can collect rates that may be excessive pending resolution of rate cases. The regulations could also reduce "pancaking" or the build-up of successive unresolved rate cases and save administrative expenses on the part of the Commission and regulated companies, benefits which will ultimately be passed through to consumers.

Legal basis: FPA sections 201, 205, and 206, DOE Act.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	NA		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: John Conway, Staff Attorney (202) 357-8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

15. Title: Revisions to form FPC-1, Annual Report for Electric Utilities, Licensees, and Others (Class A & B)

Docket Number RM80-55

Description: This rulemaking is the result of a continuing Commission effort to reduce unnecessary reporting requirements and paperwork burdens imposed on regulated companies. This proposal would eliminate information requested in Form No. 1 which is no longer necessary or duplicates information submitted to meet other requirements. The Commission seeks to require only information which is actually used in Commission decision-making processes.

Form 1 must be filed yearly by privately-owned electric utilities with annual operating revenues of $1 million or more which are subject to the FERC's jurisdiction. It requires the utilities to submit general corporate information, and financial, operating and other statistical data. The proposed rule should delete about 28 percent of the information currently required, or 167,000 hours of work on the part of regulated utilities.

Legal basis: FPA sections 304 and 309.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	7/8/80 C	45 FR 47705 7/16/80.	'80:3rd.
Interim regulations issued.	NA		
Order issued	10/22/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Cathy Ciaglo, Staff Attorney (202) 357-8318, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

16. Title: Federal Rates and Power Marketing

Docket Number RM80-40

Description: The authority to prescribe and approve rates for electric power generated by federal hydroelectric projects is divided between the Administrators of the federal power marketing agencies who prescribe proposed rates and the FERC which reviews and approves those proposed rates. This policy was evolved when the market for electric power was still relatively undeveloped, because it was thought that the Administrators would have the necessary knowledge of markets in their regions to set appropriate rates to encourage sales of electricity, and that the Commission could ensure that the rates conform to national policy.

The FERC approves the rates charged by the five Federal power marketing agencies for the sale of wholesale hydroelectric power produced at Federally-owned dams throughout the country. These agencies—the Alaska Power Administration, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration—market nearly half of the hydro power generated in the U.S.

This proposed rulemaking will for the first time establish standard procedures and filing requirements for power marketing agency rate changes and should result in more expeditious review of these rates.

Legal basis: DOE Act section 402; Delegation Order No. 0204-33, 44 Federal Register 56735 (10/2/79)

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	TBD		
Interim regulations issued.	NA		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: Michael Kessler, Staff Attorney (202) 357-5227, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

17-18. Title: Price Squeeze

Docket Numbers RM79-79, RM79-80

Description: Public utilities are regarded as "natural monopolies", that is, they provide services and facilities that can be most efficiently provided by a single firm. The belief that such a firm's rates and practices should be controlled by government regulation—because competitive market forces are not operative, and the monopolist will accordingly overcharge its customers—has for decades been widely accepted, though in varying degrees, by a public eager to gain the economic efficiencies of natural monopolies, but unwilling to pay monopoly overcharges for them. Because of this economic monopoly, public utilities' rates to retail customers are regulated at the state level by regulatory commissions and utilities' wholesale rates are regulated by FERC.

When a utility sells electricity to retail customers and also sells to wholesale customers for resale to their own retail customers, a price squeeze can occur. If a utility, selling at retail and at wholesale, charges a wholesale price that is out of proportion to wholesale costs, given the relationship of retail prices to retail costs, then the utility may be pricing discriminatorily. For instance, if the costs of providing generation and transmission to the retail customers are the same as the costs of providing these services to wholesale customers, but the wholesale price is higher than the retail price, then the selling utility is engaging in price discrimination against the wholesale customer. Since there is split regulatory jurisdiction between state public utility commissions and FERC, retail-to-wholesale price discrimination is not uncommon when FERC and the state commissions come to different conclusions about the costs to provide service and the appropriate rates of the respective services.

If the utility selling wholesale power and a wholesale customer buying its power from that utility are both competing for the same retail customers, the utility's wholesale price discrimination can squeeze the wholesale customer out of competition in the retail market. If the wholesale customer has alternative electric suppliers available to it, then it may be able to escape the squeeze by switching suppliers and thus continue to compete effectively with the utility in the retail market. Lacking this opportunity, the combination of wholesale price discrimination and the resulting anticompetitive effect of the discrimination causes a price squeeze for the wholesale customer that may be found unduly discriminatory and unlawful under the Federal Power Act.

The FERC is in the process of evolving general rules to handle price squeeze allegations. These rules will carry out the Supreme Court ruling in *Conway Corporation* v. *FPC* that required the Commission to consider claims of price squeeze in its wholesale electric rate cases.

RM79-79 sets out procedures for handling a rate case in which price squeeze is alleged. This rulemaking provides that the rate case may be phased: in the first phase the Commission will determine just and reasonable rates without considering price squeeze. In most cases, the Commission's determination on the appropriate wholesale costs that may be recovered in the wholesale rate will lower the wholesale rate from that proposed by the utility to such a level that any alleged price discrimination will be eliminated and thus would moot the claim of price squeeze. If a claim of price squeeze is still applicable, the Commission will consider it in a second phase of the proceedings.

RM79-80 establishes the requirements to prove or disprove a claim of price squeeze. Particular attention is given to what constitutes a first showing in the case, or what conditions, when met, will cause the Commission to investigate the claim further.

Legal basis: FPA, DOE Act, *Conway Corporation* v. *FPC* (426 U.S. 271 (1976)).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	11/1/79 C	44 FR 67154 11/23/79	'79:4th.
Interim regulations issued.	N/A		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Bonnie Cord, Staff Attorney (202) 357-8152, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Introduction to Regulations Under the Natural Gas Policy Act

The Natural Gas Policy Act of 1978 (NGPA), one of the five parts of the National Energy Act, grew out of the need to reform federal regulation of the natural gas industry. Just before the passage of the Act, the Nation had suffered through two seasons of severe natural gas shortages due to a dual interstate-intrastate market system. Prices in the largely unregulated intrastate markets were significantly higher and natural gas supplies were building up in the producing states while interstate pipelines, constrained by federally-set prices based on production costs, were unable to secure adequate supplies for delivery to consuming states.

The NGPA eliminated the dual market system by placing all wellhead sales of natural gas under federal jurisdiction and set a series of gradually escalating incentive prices for recently discovered or "new" natural gas which more closely approximated the higher costs of alternate fuels at the time the Act was passed. These prices were intended to stimulate production and to smooth the transition to deregulation of most new which was set by the NGPA for January 1, 1985.

In the past, the FERC had set prices for natural gas based on area and then nationwide average costs of production. Under the NGPA, the Commission's responsibility is to verify that natural gas wells qualify for the various prices set by Congress depending on when the well was drilled, where the gas is produced and whether it was priced under the earlier practices of the Commission.

The NGPA also required the FERC to institute a program known as "incremental pricing" to charge large industrial users of natural gas a larger proportion of the higher prices for new gas set in the NGPA. The purpose of incremental pricing was, first, to provide a measure of protection to high priority

users of natural gas (such as residential and small commercial users) from the full immediate impact of higher gas prices. Second, the program was intended to prevent large jumps in the price of natural gas and the economic disruption which might follow deregulation by putting interstate pipelines in a position where they might lose industrial customers if their bids to buy deregulated gas from producers were too high and their prices exceeded prices for alternative fuels. (Pipeline companies buy most of the gas that is produced in this country for resale to distribution companies and large industrial users.)

Other provisions of the NGPA are intended to balance supplies of natural gas and ensure continuity of supply; to provide emergency authority in the event of serious shortages; to establish curtailment priorities to govern allocation of natural gas during shortages; and to clarify the relationship of the Commission's authorities under the NGA and the NGPA.

19. Title: Alternative Fuel Cost Ceilings for Incremental Pricing, Order 81

Docket Number RM79-21

Description: Under incremental pricing, industrial boiler fuel users must pay prices for natural gas up to the price of alternative fuels. The actual price paid depends on the amount of new gas in their pipeline's system supply and the number of users subject to incremental pricing served by the pipeline. In almost all cases, industrial users are paying a price for natural gas equal to the regional price of No. 6 high-sulfur fuel oil, the alternative fuel designated until November 1, 1981, by the Commission.

The regional price of No. 6 high-sulphur fuel oil is calculated monthly by the Energy Information Administration (EIA) of the Department of Energy. This calculation is based on data collected on the actual prices paid for the fuel in the immediately preceding months. This data is averaged and adjusted for various statistical factors.

It is important that these calculations be precise because industrial boiler fuel users may switch to fuel oil if it is cheaper than incrementally priced natural gas.

The Commission is currently considering new methods to be used by EIA to calculate alternative fuel price ceilings.

Legal Basis: NGPA sections 203 and 204.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	TBD		
Interim regulations issued.	NA		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Colette Bohatch, Staff Attorney (202) 357-8140, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

20. Title: Procedures for NGPA Adjustments of Rates and Orders Issued by FERC (Pt. 2)

Docket Number RM79-32

Description: Federal statutes set general guidelines and requirements and cannot take into consideration all circumstances. For this reason, many statutes include provisions for "adjustments"—exceptions, exemptions, modifications, or recissions—in special cases where it can be demonstrated that an individual or group or business concern cannot meet a particular statutory requirement or would be seriously harmed or handicapped by meeting the requirement.

One important purpose of the NGPA is to set general rules applicable to the entire sectors of the natural gas industry and replace provisions in the NGA which required case-by-case determination. Section 502(c) of the NGPA provides for adjustments to these general rules. This rulemaking sets up the procedures—form and content of applications, deadlines for Commission action, and appeals—to be followed to obtain an adjustment.

Legals basis: NGPA section 502(c).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	NA		
Interim regulations issued.	3/24/80 C	44 FR 18961 3/30/79.	'80:1st.
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: MaryJane Reynolds, Legal Counsel (202) 357-8455, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

21. Title: State-wide Exemption from Incremental Pricing

Docket Number RM79-47

Description: This rulemaking addresses the relationship between the federal incremental pricing program and actions taken by state regulatory bodies to accomplish the purposes of incremental pricing.

The first type of program considered in the regulations is implementation of a program similar to the federal program which sets the rates to the same users subject to the federal incremental pricing program at or above the alternative fuel price ceiling established by the Commission.

The second type of program addressed in this rulemaking is an innovative rate plan designed to accomplish the purposes of incremental pricing but in a substantially different manner.

The Commission is considering allowing states implementing either of these types of programs to keep the revenues generated by their incremental pricing program for distribution to their residential users.

Legal basis: NGPA section 206(d).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/27/79 C	45 FR 1081 1/4/80.	'79:4th.
Interim regulations issued.	NA		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Thomas Hirsch, Staff Attorney (202) 357-8335, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

22. Title: Procedures Governing Applications for Special Relief under Sections 104, 106 and 109 of NGPA

Docket Number RM79-67

Description: The various prices set by Congress for natural gas should, under ordinary circumstances, provide producers with an adequate return on their investment to make production of most domestic reserves economically feasible. In some cases, however, the maximum lawful price does not permit a producer to earn a fair profit, or in extreme cases, even to recover the costs of production.

In these cases and without the possibility of a higher price, the producer has two alternatives: continue production at an economic loss or abandon the well. Neither of these alternatives are in the public interest since the first affects the producer and would likely discourage further business ventures and the second affects the consumer because less gas is available.

Consequently, the Congress authorized the FERC to provide "special relief" for three of the ten categories of natural gas set out in the NGPA. This covers gas under sections 104 (sales of gas dedicated to interstate commerce), 106 (sales of gas subject to rollover contracts) and 109 (sales of gas in other categories).

These regulations describe the circumstances under which a producer-seller of natural gas may seek a special relief rate, the manner in which the application should be made, the process by which the Commission will consider an application, and the cost standards that the Commission will use to determine a special relief rate.

Legal basis: NGPA sections 104(b)(2), 106(c), 109(b)(2).

Major stages of completion	Date	FR Citation	Calendar quarter
NOPR issued	5/9/80 C	45 FR 31744 5/14/80.	'80:2nd.
Interim regulations issued.	NA		
Order issued	10/22/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Susan Tomasky, Staff Attorney (202) 357–8461, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

23. Title: High Cost Natural Gas Produced from Tight Formations, Order 99

Docket Number RM79–76

Description: The Congress anticipated that, following enactment of the NGPA, it would become apparent that production of natural gas under circumstances not covered in the NGPA should be encouraged. Section 107(c)(5) of the NGPA authorizes the Commission to identify gas which is extremely expensive or risky to produce and to set an incentive price adequate to stimulate production of the gas.

The Commission has identified natural gas produced from tight formations or "tight sands" as high-cost gas and has established an incentive price equal to 200 percent of the price for gas from new, conventional onshore wells.

Tight formations are sedimentary layers composed of very fine and irregularly shaped grains of sand cemented together in such a way as to greatly hinder the flow of gas through the rock. As a result, expensive production enhancement techniques must almost always be applied so that gas will flow in volumes worth producing. The most common of these techniques involves massive hydraulic fracturing of the rock to create a system of cracks permitting trapped gas to flow into the wellbore more easily.

It is estimated that 200 trillion cubic feet of natural gas is trapped in tight formations within the United States. This compares with the 200 trillion cubic feet of proven conventional domestic gas reserves.

Legal basis: NGPA section 107(c)(5).

Major stages of completion	Date	FR Citation	Calendar quarter
NOPR issued	8/29/79 C	44 FR 52253 9/17/79.	'79:3rd.
Interim regulations issued.	2/6/80 C	45 FR 13414 2/28/80.	'80:1st.
Order issued	8/15/80 C	45 FR 56034 8/22/80.	'80:3rd.
Rehearing decision issued.	10/15/80 T		'80:4th.

Agency official: June Perin, Staff Attorney (202) 357–8473, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

24. Title: Pricing of Pipeline and Affiliate Production under the Natural Gas Act, Order 98

Docket Number RM80–6

Description: In the 1970's, the FPC sought to encourage development of supplies that would be "dedicated to interstate commerce." As part of this effort, the Commission decided to allow interstate pipelines and affiliated companies to value gas that they produced at prevailing area or nationwide rates. Until that time, gas produced by interstate pipelines or affiliated companies had been valued on the basis of the cost of production.

When the NGPA was enacted, Commission-determined area and nationwide rates were replaced with Congressionally-set prices for gas. However, Congress did not intend to disrupt Commission regulation of the interstate pipeline network and left the valuation of pipeline production sold in mixed volume sales (volumes that contain both pipeline and affiliate production and gas purchased from independent producers) to the Commission to determine under the NGA.

RM80–6 treats gas produced by pipelines and affiliates which is commingled with gas produced by independent producers and therefore subject to the Commission's pricing authority under the NGA. The Commission has determined that it is in the public interest to allow this gas to qualify for the applicable ceiling price set in the NGPA, except when a pipeline or affiliate had applied for and received a higher "special circumstances" cost-of-production rate. In these cases, the pipeline or affiliate has been guaranteed recovery of costs incurred in drilling the well plus a margin of profit and should continue to produce the gas at that price.

This rulemaking will allow pipelines to value their production subject to the NGA at current NGPA prices and should encourage pipelines to continue to develop new gas supplies.

Legal basis: NGPA section 2(21)(b),15 U.S.C. 2201, *et seq.*; NGA sections 4, 5, 8, as amended, 15 U.S.C. 717 *et seq.*

Major stages of completion	Date	FR Citation	Calendar quarter
NOPR	11/14/79 C	44 FR 66613 11/20/79.	'79:4th
Interim regulations issued.	NA		
Order issued	8/4/80 C	45 FR 53091 8/11/80.	'80:3rd.
Rehearing decision issued.	9/24/80 T		'80:3rd.

Agency official: Susan Tomasky, Staff Attorney (202) 357–8461, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

25. Title: Final Rule Governing Maximum Lawful Prices for Pipeline Distribution or Affiliate Production, Order 58

Docket Number RM80–7

Description: This rulemaking defines the term "first sale" with regard to sales of gas by pipelines, distribution companies or their affiliates that they have produced (as opposed to gas bought from independent producers). The circumstances under which sales of this gas will be considered first sales and therefore eligible for NGPA prices will be set out. "First sales" is a term which means that the sale is subject to the terms of the NGPA and is therefore eligible for NGPA prices. The term does not refer to the first time gas sold—hence, there may be a chain of first sales.

Ordinarily pipelines and distributors that produce gas do not sell it directly to a purchaser; they commingle it with gas purchased from other producers and sell the mixed volumes to the purchaser. A mixed volume sale is not a first sale because, in selling mixed volumes, the pipeline is acting in its capacity as transportation agent rather than as a producer.

Legal basis: NGPA sections 2(21)(A)(v) and 2(21)(B).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	N/A		
Interim regulations issued.	12/1/78 C		'78:4th.
Order issued	11/14/79 C	44 FR 68577 11/29/79.	'79:4th.
Rehearing decision issued.	9/24/80 T		'80:3rd.

Agency official: Susan Tomasky, Staff Attorney (202)357–8461, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

26. Title: Permanent Rule Defining Agricultural uses Exempt from Incremental Pricing under NGPA, Order 83

Docket Number RM80–28

Description: The NGPA provides that agricultural users of natural gas should be exempt from incremental pricing surcharges, provided the Commission determines that an alternative fuel is not econmically practicable or reasonably available. In making this determination, the Commission must consider what constitutes capability to burn an alternative fuel and what thresholds should be set in designating economically practicable and reasonably available fuels.

At present, agricultural uses of natural gas have been exempted on an interim basis until an "alternative fuel test" can be developed.

Legal basis: NGPA section 206(b).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	12/31/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	3/31/81 T		'81:1st.
Rehearing decision issued.	TBD		

Agency official: Colette Bohatch, Staff Attorney (202)357–8140, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

27. Title: High Cost Gas: Deep Water

Docket Number RM80–38

Description: The Commission has proposed to officially designate gas produced from wells drilled in deep water as another type of "unconventional" or "high-cost" gas. This rulemaking is an outgrowth of the comments

received in a Notice of Inquiry requesting that the public suggest categories of gas which might qualify as high-cost gas.

The production of gas from submerged acreage becomes more costly as offshore production moves deeper. Costs and risks escalate rapidly because specially designed exploratory vessels, drilling and production platforms, and other equipment are required.

The purpose of this rulemaking is to determine whether or not an incentive price should be established to encourage the development and production of gas from wells drilled in deep water.

Legal basis: NGPA section 107(C)(5).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	7/11/80 C	45 FR 47863 7/17/80.	'80:3rd.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Colette Bohatch, Staff Attorney (202)357-8140, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426.

28. Title: Definition of Agricultural Uses in Section 282.202(A) of the Commission's Regulation on Incremental Pricing

Docket Number RM80-48

Description: Congress provided that agricultural uses of natural gas should be exempt from incremental pricing surcharges because of concern about price increases for necessary items such as food and fiber products. Although the Congress provided general guidelines for exempting agricultural uses, the Commission was given discretion to set specific limitations on eligibility.

The Commission's definition of agricultural uses is based on the Standard Industrial Classification (SIC) codes, a series of standardized classifications of manufacturing, industrial and market activities in the U.S. In this rulemaking, the Commission is proposing to expand its original list of the SIC codes which will be considered agricultural uses of natural gas and will therefore be exempt from incremental pricing.

Legal basis: NGPA section 206(B).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	4/10/80 C	45 FR 25835, 4/16/80.	'80:2nd.
Interim regulations issued.	NA		
Order issued	10/1/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Barbara Christin, Staff Attorney (202)357-8446, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

29. Title: High-Cost Natural Gas—Production Enhancement Procedures

Docket Number RM80-50

Description: This rule will encourage production of reserves of natural gas which are recoverable only by application of enhanced production techniques. These techniques are often too costly to apply at the prices available under the existing "intrastate" contracts governing natural gas covered by section 104 of the NGPA to which this rule would apply.

Supply enhancement procedures often become necessary in order to maintain or to increase production from a depleting well or a well in which production has become marginal. Supply enhancement procedures eligible under the proposed rule include: (1) re-entry into a well which has been plugged and abandoned: (2) re-entry into a well in order to drill deeper or start a side shaft; (3) re-perforation of the well casing or perforation into a separate gas producing zone; (4) repair or replacement of a faulty or damaged casing or related equipment in the well bore; (5) acidizing, fracturing or installation of compression equipment. Current regulations applicable to this gas do not allow sufficient flexibility to contracting parties to amend, to modify or renegotiate contracts in order to provide for production enhancement work.

The purpose of this rule is to set a ceiling price which is high enough to encourage production of reserves of natural gas recoverable only through production enhancement procedures. The Commission has proposed that gas produced with supply enhancement procedures applied after May 29, 1980 be eligible for an incentive price as high as the price for gas under section 109 of the NGPA. (In August 1980, the price for section 109 gas was $1.72 per million Btu's.)

Legal basis: NGPA sections 107 and 501.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	7/25/80 C	45 FR 51219, 8/1/80.	'80:3rd.
Interim regulations issued.	NA		
Order issued	10/1/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: Jeffrey Fink, Staff Attorney (202) 357-8460, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Introduction to Regulations Under NGPA Section 110

The six rulemakings which follow concern state severance taxes on resource extraction and production-related costs which, in some cases, may legitimately be collected over and above the maximum lawful price set for the gas in the NGPA. The purpose of section 110 of the NGPA and the Commission's regulations implementing this section is to ensure that producers can promptly collect for these taxes and certain, specific production-related costs which the Commission determines are legitimate.

The Commission, in providing for collection of state severance taxes and production-related costs, is seeking to establish a workable set of rules for natural gas pricing and to increase deliveries of properly compressed, treated and processed gas for shipment to ultimate consumers. At the same time, the Commission seeks to do so without shifting unwarranted costs to consumers.

30. Title: NGPA Section 110, State Severance Taxes

Docket Number RM80-21

Description: This rulemaking sets out the conditions under which state severance taxes on resource extraction may be added to the maximum lawful prices for gas covered under sections 105 and 106(b) of the NGPA. Sections 105 and 106(b) generally apply to gas which was sold in intrastate commerce at the time the NGPA was enacted. The Commission is considering this gas separately because the contracts under which it is sold often provide for recovery of state severance taxes in the contract price.

Legal basis: NGPA section 110.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	1/18/80 C	45 FR 5747 1/24/80.	'80:1st.
Interim regulations issued.	N/A		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Teresa Ponder, Staff Attorney (202) 357-8151, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

31. Title: Interim Regulations Implementing NGPA Section 110 (Subpart K, Pt. 271) "Production-Related Costs," Order 94

Docket Number RM80-47

Description: These regulations will have a major impact on who pays for certain services necessary for natural gas production and transportation to consumers and how much will be paid for those services. These services are considered to be production-related costs (rather than costs of production which should be covered by the maximum lawful price).

The interim regulations covering collection of production-related costs defined who could apply for these costs, what costs could be applied for and how an application should be made. The regulations were based on an

expensive and time-consuming process of case-by-case ruling on applications.

In July 1980, the FERC amended the interim regulations to provide that certain, minimal types of production-related costs could be automatically added to a sales price without further administrative action or delay. The amendments also isolated the two most important types of production-related costs—costs for gathering or collecting gas from individual wells and channeling it into the main pipeline and for compression or pressurizing the gas so that it will flow through the pipeline. Appropriate costs for gathering and compression will be determined in separate rulemakings so that these costs may also be automatically added to the sales price. The results of these separate rulemakings will eventually be integrated into this rule.

In some cases, production-related costs are paid for by the pipeline purchasing the gas instead of the producer. A policy describing the types of production-related costs that the Commission will consider for inclusion in the pipeline's rates was contained in the July amendments, further simplifying administrative proceedings.

To finalize this rulemaking, the Commission must conclude its inquiry into appropriate sales price add-ons for gathering and compression and review the policies contained in the July amendments.

Legal basis: NGPA section 110, NGA sections 4, 5 and 7.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	N/A		
Interim regulations issued.	7/25/80 C	45 FR 52866 8/8/80.	'80:3rd.
Order issued	12/17/80 T		'80:4th.
Rehearing decisions issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357–8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

32. Title: NGPA Section 110, Production Cost Rule

Docket Number RM80–72

Description: This rulemaking complements other proceedings under section 110 of the NGPA. These regulations will specify which costs must be considered as production costs and therefore covered by the maximum lawful price. These costs may *not* be claimed as production-related costs and may *not* be added over and above the maximum lawful prices set in the NGPA.

Legal basis: NGPA section 110.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	9/10/80 C	45 FR 61643 9/17/80.	'80:3rd.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357–8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

33. Title: NGPA Section 110, Gathering Allowance

Docket Number RM80–73

Description: This proceeding was initiated to inquire into the cost of gathering facilities to bring natural gas from the wellhead to the main pipeline. The Commission must set a maximum charge that can be added on to the maximum lawful price set in the NGPA as a production-related cost. Once completed, the results of this rulemaking will be incorporated into the regulations on production-related costs.

Legal basis: NGPA section 110.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	10/22/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357–8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

34. Title: NGPA Section 110, Compression Allowance

Docket Number RM80–74

Description: This rulemaking was initiated to inquire into the cost of compressing natural gas so that it will flow through the gathering system to the main pipeline. The Commission must set a maximum charge that can be added, as a production-related cost, on to the maximum lawful price set in the NGPA. The results of this rulemaking will be incorporated into the regulations on production-related costs.

Legal basis: NGPA section 110.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	10/22/80 T		'80:4th.
Interim regulations issued.	N/A		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357–8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

35. NGPA Section 110—New Filing Requirements

Docket Number RM80–76

Description: The Commission instituted this rulemaking to inquire into which costs incurred by natural gas pipelines after purchasing gas at the maximum lawful price can legitimately be charged to consumers as a necessary expense to deliver the gas. These charges could include gathering, compression, expenses for processing the gas and other expenses when not incurred by the producer prior to selling the gas.

Legal basis: NGPA section 110.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	9/10/80 C	45 FR 61641, 9/17/80.	'80:3rd.
Interim regulations issued.	N/A		
Order issued	12/31/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357–8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

36. Title: Rule Required Under Section 202 of NGPA—Phase 2 Incremental Pricing Program, Order 80

Docket Number RM80–10

Description: The NGPA required that the Commission develop regulations extending the incremental pricing program to industrial users of natural gas other than boiler fuel users. These Phase II regulations were to be reviewed by Congress before an extension of the program could be made effective.

The Congress vetoed the Phase II incremental pricing regulations, but the Commission is still considering the Phase II rule.

Legal basis: NGPA section 202(A)(1).

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	11/15/79 C	44 FR 67170 11/23/79.	
Interim regulations issued.	NA		
Order issued	5/6/80 C	45 FR 31622 5/13/80.	
Rehearing decision issued.	7/30/80 C	45 FR 54741 8/18/80.	

Agency official: Barbara Christin, Staff Attorney (202)357–8446, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Introduction to Regulations Under the Natural Gas Act

The Natural Gas Act was enacted in 1938 to establish federal regulation of the interstate natural gas pipeline system. The Act authorized the Federal Power Commission to set rates and charges for interstate transportation and sale of natural gas (under usual circumstances, the pipelines buy gas from producers, transport it and resell it to wholesale customers), to approve and certificate new pipeline facilities or abandonment of existing pipeline facilities, and to approve initiation or abandonment of service.

Interstate natural gas pipelines are regulated as public utilities. They are granted a monopoly in serving certain regions of the country. Because competition has been excluded, their rates and services are federally-controlled.

Under the original interpretation of the Act, the prices at which natural gas was sold at the wellhead were not federally regulated. However, in 1954, the Supreme Court ruled that the NGA required federal regulation of the price of gas at the wellhead, if the gas was to be sold in "interstate commerce." The Court accepted the argument that because pipelines are allowed to "Pass through" to customers the cost of purchasing gas, customers should be protected from "excessive" prices at the wellhead.

So the FPC undertook to set prices based on the costs of production of each well selling gas to interstate pipelines. At that time, there were over 20,000 producing wells, and the Commission eventually developed more general pricing policies which were initially based on average production costs in specific geographic areas and later on nationwide average costs. This scheme of "wellhead pricing" has now been largely superseded by the NGPA.

37. Title: Compensation Provisions on Curtailment Plans

Docket Number RM78-4

Description: In order to be prepared for natural gas shortages, interstate pipelines must develop curtailment plans, that is, priorities for the allocation of natural gas among customers when supply is inadequate to meet total demand. Customers who cannot use alternate fuels or who, if curtailed, might not be able to meet their obligations to human health and welfare—residential users, schools and hospitals—are given highest priority. Industrial users burning gas under boilers for industrial processes or to generate electricity can generally substitute fuel oil for natural gas and are usually given lowest priority.

Some industrial users were heavily curtailed during the natural gas shortages of 1967–1977. Those users were forced to switch to fuel oil which was considerably more expensive than gas at that time. They contend that all the customers on a pipeline system—both low priority and high priority—should share the economic impact of curtailment, and that they should therefore be compensated by customers who were not curtailed for their expenditures for higher priced fuels.

The FERC initiated this rulemaking to determine whether industrial users curtailed during the shortage of 1976–1977 should be entitled to compensation and whether compensation provisions should be included in curtailment plans in the future; while the FERC recently decided to terminate this rulemaking, the Commission will continue to address these issues on a case-by-case basis.

Legal basis: NGA, FPA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	11/30/77 C	42 FR 62518 12/18/77.	'77:4th.
Interim regulations issued.	NA		
Order issued	8/4/80 C	45 FR 5354 8/15/80.	'80:3rd.
Rehearing decision issued.	10/1/80 T		'80:4th.

Agency official: John Conway, Attorney-Advisor (202)357-8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

38. Title: Transportation Certificates for Natural Gas Displacements of Fuel Oil, Order 30

Docket Number RM79-34

Description: Some of the electricity produced in this country is generated by burning gas or oil to heat water which in turn produces steam to power generating turbines. Most utilities that burn gas or oil can burn either fuel and it is in the national interest in the short run to replace as much foreign oil as possible with domestic natural gas—as long as a surplus exists over and above supplies necessary to ensure that the needs of high priority customers dependent on natural gas are met.

This program allows electric utilities and certain other large oil-burning facilities who buy gas directly from producers, distributors, or pipelines to obtain transportation from the well to power plant sites through interstate pipeline systems. In some circumstances, transportation arrangements under the program are self-executing and do not require advance FERC approval, but only an after-the-fact report to FERC.

The program is short term, since it is based on the existence of surplus natural gas supplies, a situation which may only continue for a limited period of time. The original program was initiated in May of 1979 to run for a one-year period (FERC Order No. 30). It was extended for three months in May of 1980 while the Commission surveyed the natural gas supply situation. After finding that surplus gas was still available and was likely to be available for the immediate future, the Commission extended the program until May 31, 1981.

If the current surplus persists beyond the expiration of Order No. 30, the Commission anticipates replacing this and other direct sales programs with a more effective mechanism to disburse excess gas supplies.

Legal basis: NGA section 7(c), NGPA section 311.

Major stages of completion	Date	F.R. citation	Calendar quarter
NOPR issued	N/A		
Interim regulations issued.	5/15/80 C	45 FR 34264 5/22/80.	'80:2nd
Order issued	8/13/80 C	45 FR 56046 8/22/80.	'80:3rd
Rehearing decision issued.	10/1/80 T		'80:4th

Agency official: Robert Platt, Staff Attorney (202) 357-8457, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

39. Title: Fees Applicable to Natural Gas Pipeline Construction

Docket Number RM79-63

Description: The NGA requires that interstate natural gas pipeline companies obtain a certificate of public convenience and necessity before building new pipeline facilities. It is the Commission's task before issuing a certificate to ascertain that the new pipeline facilities are necessary; that there are adequate supplies of natural gas available to the pipeline to support the cost of construction; that the pipeline company's construction plans can be completed at a reasonable cost.

Consumers ultimately pay for the cost of building the facilities that bring them natural gas. Charges to cover those costs are added to each unit of natural gas that flows through the pipeline, and therefore it is essential that there are adequate supplies of gas and that pipeline construction costs are reasonable so that the cost of each unit of gas is reasonable.

The purpose of this rulemaking is to review the Commission's present fee structure and to consider alternative fee structures.

Legal basis: NGA, DOE Act.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	TBD		
Interim regulations issued.	N/A		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: Sheldon Toibb, Staff Attorney (202) 357-5225, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

40. Title: Revisions to Form FPC-2, Annual Report for Natural Gas Companies (Class A and B)

Docket Number RM80-56

Description: Revisions in this form—a major source of information on gas pipelines regulated by the FERC—are part of the Commission's effort to reduce paperwork and reporting requirements where possible. The proposal would eliminate information which is no longer necessary or duplicates information submitted to meet other requirements. The Commission is applying a strict test based on a clear need for data and will seek to require only information actually used in FERC decisionmaking processes.

Form 2 must be filed yearly by natural gas pipeline companies with annual operating revenues of $1 million or more. Form 2 requires the pipeline to submit general corporate information and financial, operating and other statistical information. The proposed rules would delete about 19 percent of the required information, or 36,700 hours of work on the part of regulated industries.

Legal basis: NGA sections 10(a) and 16.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	7/1/80 C	45 FR 46075 7/9/80.	'80:3rd
Interim regulations issued.	NA		
Order issued	10/22/80 T		'80:4th
Rehearing decision issued.	TBD		

Agency official: Cathy Ciaglo, Staff Attorney (202) 357-8318, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Introduction to Miscellaneous Regulations

Rulemakings in this section apply to more than one of the major sectors regulated by the Commission, or originate in a statute which applies to all federal agencies, rather than giving specific responsibilities to the Commission.

41. Title: Tax Normalization

Docket Number RM80-42

Description: Tax normalization matches the tax deductions associated with expenses to the "recognition" of the expenses by a regulatory body that decides when that expense can be recovered from consumers in rates. Because regulatory agencies seek to ensure that only consumers who benefit from an expense are required to reimburse a regulated company for that expense, the expense is not always included in rates in the same year as the expense was made.

For example, utilities may not include construction expenses in their rates until the plant is operational and consumers are actually receiving power. However, the IRS gives tax deductions resulting from interest on construction loans in the year that the interest is paid, i.e., before the plant becomes operational.

If a utility normalizes tax deduction and expenses, this means that the expense will be treated as a tax deduction for purposes of calculating the taxes covered from consumers in the same year that a regulatory agency has authorized the utility to collect the expense from consumers.

A staff study conducted for this rulemaking concludes that, over time, there is no significant difference in rates to consumers if tax normalization or if the alternative method of "flow through" (passing tax deduction through to consumers when received, regardless of when the expense will be recognized by the regulatory agency) is used. As a result and because it is more equitable to allocate the tax benefit associated with a particular expense to the same customers who pay the expense, these regulations will allow regulated companies to use tax normalization in computing their rates.

Legal basis: FPA sections 205 and 206, DOE Act section 402.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	3/31/80	45 FR 20531 4/3/80.	'80:1st.
Interim regulations issued.	NA		
Order issued	11/5/80 T		'80:4th.
Rehearing decision issued.	TBD		

Agency official: John Conway, Attorney-Advisor (202) 357-8150, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

42. Title: National Environmental Policy Act

Docket Number RM79-69

Description: The enactment of the National Environmental Policy Act of 1969 (NEPA) signaled a new era of governmental concern for the environment. The purpose of the Act is to require consideration of the consequences of the actions of federal agencies on the environment. The Act added a new stage in the planning and preparation of every major action in which federal government is involved—the environmental impact statement (EIS). NEPA also created the Council on Environmental Quality (CEQ) to review and report on the environmental impacts created by programs and activities of all levels of government and private enterprise.

While the FERC is bound by NEPA requirements, it is exempt from CEQ review because it is an independent regulatory agency. However, certain of the Commission's actions—primarily issuance of hydroelectric project licenses and natural gas pipeline certificates—are likely to have a significant impact on the environment and in these and other instances, the Commission must ensure that the intent of NEPA is carried out.

Therefore, the Commission, in this rulemaking, is voluntarily revising its procedures under NEPA to conform, as much as possible, to the new standards recently issued by CEQ. The major goal of this proposed rule is to specify the kinds of environmental data that must be submitted by applicants for the range of permits and certificates issued by the FERC.

Legal basis: NEPA.

Major stages of completion	Date	FR citation	Calendar quarter
NOPR issued	8/20/79 C	44 FR 50052 8/27/79.	'79:3rd.
Interim regulations issued.	NA		
Order issued	TBD		
Rehearing decision issued.	TBD		

Agency official: James Hoecker, Staff Attorney (202) 357-9342, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Appendix A

Information Available at the FERC, Division of Public Information (Reprinted from Title 18, Code of Federal Regulations, § 1.36)

(c) *Public records.* The public records of the Commission, available for inspection and copying upon a request reasonably describing the document, during business hours in the public reference room maintained by the Office of Public Information, include: (1) All submittals and filings as follows: (i) Applications, declarations, complaints (both formal and informal), petitions and other papers seeking Commission action;

(ii) Financial and statistical and other reports to the Commission, power system statements, statements of claimed cost of licensed projects, original cost and reclassification studies, proposed accounting entries, certificates of notification (under section 204(e) of the Federal Power Act), rates or rate schedules and related data and concurrences, and other filings and submittals to the Commission in compliance with the requirement of any statute, executive order, or Commission rule, regulation, order, license, or permit;

(iii) All answers, replies, responses, objections, protests, motions, stipulations, exceptions, other pleadings, notices, depositions, certificates, proofs of service, transcripts or oral arguments, and briefs in any matter or proceeding;

(iv) All exhibits, attachments and appendices to, amendments and corrections of, supplements to, or transmittals or withdrawals of, any of the foregoing;

(v) Any Commission correspondence relating to any of the foregoing;

(2) All other parts of the formal record in any matter or proceeding set for formal or statutory hearing and any Commission correspondence related thereto. "Matter or proceeding" means the Commission's elucidation of the relevant facts and applicable law, consideration thereof, and action thereupon with respect to a particular subject within the Commission's jurisdiction, initiated by a filing or submittal or a Commission notice or order. "Formal record" includes in addition to all the filings and submittals in a matter or proceeding, any notice or Commission order initiating the matter or proceeding, and, if a hearing is held, the following: The designation of the presiding officer, transcript of hearing, all exhibits received in evidence, all exhibits offered but not received in evidence, offers of proof, motions, stipulation, subpeonas, proofs of service, reference to the Commission, and determinations made by the Commission thereon, certifications to the Commission, and anything else upon which action of the presiding officer or the Commission may be based; it does not include any unaccepted offer of settlement made by a party in the course of a proceeding and not formally submitted to the Commission.

(3) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence.

(4) All presiding officer actions and all presiding officer correspondence and memoranda to or from others with the exception of internal communications within the Office of Administrative Law Judges.

(5) All Commission orders, notices, findings, opinions, determinations, and other actions in any matter or proceeding and all Commission minutes which have been approved.

(6) All Commission correspondence relating to any furnishing of data or information, except to or by another branch, department, or agency of the Government.

(7) Commission correspondence with respect to the furnishing of data, information, comments, or recommendations to or by another branch, department, or agency of the Government where furnished to satisfy a specific requirement of a statute or where made public by that branch, department or agency.

(8) Commission correspondence and reports on legislative matters under consideration by the Bureau of the Budget or Congress but only if and after made public or released for publication by that Bureau or the Committee or Member of Congress involved.

(9) Staff reports on statements of claimed cost by licensees where such reports have been served on the licensee.

(10) Commission correspondence on interpretation of the Uniform System of Accounts and letters on such interpretation signed by the Chief Accountant and sent to other than the Commission, a Commissioner, or any of the staff.

(11) Copies of all filings, certifications, pleadings, records, briefs, orders, judgments, decrees, and mandates in court proceedings to which the Commission is a party and all correspondence with the courts or clerks of court.

(12) The Commission's Administrative and Operating Manuals.

(13) Transcripts, electronic recordings, or minutes of Commission meetings closed to public observation containing material nonexempt pursuant to § 1.3a of this Part.

(14) All other records of the Commission except for those that are: (i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of personal privacy, disclose the identity or a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, disclose investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; or

(viii) Geological and geophysical information and data, including maps, concerning wells.

(15) Any reasonably segregable portion of a record after deletion of the portions which are exempt under this section.

(16) The following are examples or information which is not part of the public records of the Commission: (i) Files and records containing facts or information not permitted to be divulged by section 301 of the Federal Power Act or section 8 of the Natural Gas Act because knowledge thereof was gained during the course of examination of books, records, data, or accounts pursuant to those sections and divulgence thereof has not been ordered by the Commission;

(ii) Files and records classified under Executive Order No. 10501, 3 CFR, 1949–53 Comp., p. 979, for national security purposes;

(iii) Written communications between or among the Commission, members of the Commission, the Secretary, and expressly designated members of the staff while particularly assigned, in accordance with all applicable legal requirements, to aid the Commission in the drafting of any order and findings, with or without opinion in any matter or proceeding;

(iv) Unaccepted offers of settlement in any matter or proceeding unless or until made public by act of the offeror.

[FR Doc. 80-33155 Filed 10-23-80; 8:45 am]

BILLING CODE 6450-85-M

federal register

Friday
October 24, 1980

Part V

Environmental Protection Agency

Submission of Notice of Manufacture or Importation of Polybrominated Biphenyls (PBBs) and Tris; Final Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 713

[OPTS-081005a; TSA FRL 1594-2]

Submission of Notice of Manufacture or Importation of PBBs and Tris

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule requires that the Environmental Protection Agency be notified of any manufacture or importation of polybrominated biphenyls (PBBs) and tris (2,3-dibromopropyl) phosphate (Tris). The purpose of the notice requirement is to confirm that there are no significant sources of these substances and to ensure that EPA has the opportunity to investigate the circumstances of any resumption of production. This notice promulgates the regulations proposed on October 12, 1979, in the **Federal Register** (44 FR 59106).

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: John Ritch, Director, Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), Environmental Protection Agency, Washington, DC 20460, 800-424-9065; in Washington call (202) 554-1404.

SUPPLEMENTARY INFORMATION:

Background

There is significant evidence that PBBs and Tris may present risks to health and the environment. They have apparently gone out of production. One company does import PBB impregnated plastic granules that are used in the manufacture of electrical equipment housings, but it is expected that no exposure to PBBs results from this use. The purpose of this notice requirement is to confirm that the substances are no longer being manufactured or imported *per se*, and to ensure that EPA has the opportunity to investigate the circumstances of any resumption of production.

On October 13, 1977, EPA announced in the **Federal Register** (42 FR 55134) its intent to investigate the need to control PBBs under the Toxic Substances Control Act (TSCA). EPA prepared a hazard assessment document evaluating the known health and environmental effects of PBBs. The assessment indicated that PBBs are embryotoxic, mutagenic, teratogenic, and potentially carcinogenic. Also, they are persistent in the environment and bioaccumulate.

On April 8, 1977, the Consumer Product Safety Commission acted to ban the use of Tris in children's wearing apparel after Tris was found to be an animal carcinogen (see 42 FR 18850-18851). All production of Tris in the United States apparently stopped by the end of 1977.

Since these chemical substances are apparently not in production *per se*, the Agency has decided that control action is not warranted at this time. Therefore, the Agency has determined that a reporting rule promulgated under section 8(a) of TSCA (15 U.S.C. 2607(a)) is the appropriate course of action. For a more in-depth discussion of the background of these substances and EPA's rationale for subjecting them to a reporting requirement under section 8(a), see the October 12, 1979 proposed rule, 44 FR 59106-59107.

This section 8(a) rule requires notification to EPA of the manufacture or import of PBBs or Tris, or the proposal to manufacture or import PBBs or Tris. After receipt of a notice, EPA will determine, through follow-up investigation, whether the activity may present an unreasonable risk to health or the environment. If EPA finds that an unreasonable risk may result, EPA will consider additional regulatory action to control the proposed PBB or Tris activity, including a ban under section 6 of TSCA (15 U.S.C. 2605).

Definitions

For the purposes of this rule, the term "PBBs" (polybrominated biphenyls) means chemical substances the compositions of which, without regard to impurities, consist of brominated biphenyl molecules having the molecular formula $C_{12}H_xBr_y$ where $x+y=10$ and y ranges from 1 to 10. "PBBs" refers to discrete chemical substances (e.g., monobromobiphenyl, heptabromobiphenyl, octabromobiphenyl, etc.) as well as combinations of PBBs that occur in whole or part as a result of a chemical reaction. See TSCA, section 3(2). However, the reporting requirements of this rule are limited to those PBBs which have been reported for the Inventory and revised Inventory—4,4'-dibromobiphenyl, hexabromobiphenyl, octabromobiphenyl, nonabromobiphenyl, and decabromobiphenyl. Manufacture or import of other PBBs will, of course, require a premanufacture notice.

The term "Tris" refers to tris(2,3-dibromopropyl) phosphate.

"Propose to manufacture or import PBBs or Tris" for purposes of this rule means that a person has made a firm management decision to commit financial resources for the manufacture or import of PBBs or Tris. EPA is not exercising the full extent of its authority to obtain information from persons who "propose" to manufacture or import chemicals because the Agency has decided that this rule will serve its purpose if the Agency is informed of a company's intentions at the time the company has committed financial resources to produce the affected chemicals.

EPA recognizes that the point at which a company "proposes to manufacture or import" a chemical substance under this rule may vary considerably from company to company.

"Small manufacturer or importer" means a manufacturer or importer with total annual sales of less than $500,000. However, no person is a small manufacturer or importer with respect to PBBs or Tris manufactured or imported in quantities greater than 10,000 pounds. Thus, a notice would have to be submitted by a manufacturer or importer if PBBs or Tris were manufactured or imported in quantities greater than 10,000 pounds.

Requirements

TSCA section 8(a) authorizes the Administrator to promulgate rules under which each person (other than a small manufacturer or processor), who manufacturers or processes or who proposes to manufacture or process a chemical substance or mixture, shall submit such reports as the Administrator may reasonably require. The principal purpose of the rule is to alert EPA to the manufacture of PBBs or Tris. Under this rule, the reporting requirement consists of a notice to EPA stating that a person is manufacturing, importing or proposing to manufacture or import PBBs or Tris as a chemical substance in bulk or as part of a mixture. This rule does not apply to processors.

Since under TSCA to "manufacture" includes to import, introduction of PBBs or Tris into the United States in bulk or as part of a mixture is also subject to reporting. Requiring reporting by importers of PBBs and Tris as part of a mixture is necessary for the effectiveness of the rule, to enable the Agency to investigate the introduction of either chemical into the U.S.

The notice will include company name and address; principal technical contact; a description of the use or intended use for PBBs or Tris; estimated exposure during manufacture or importation, disposal, processing, distribution, and use; estimated production volume; and, as appropriate,

the proposed date for the resumption of manufacture or import of PBBs or Tris.

EPA considers most of the above information, such as estimated exposure during manufacture, estimated production volume, proposed date for the resumption of manufacture, and other information about the manufacturer's own activities to be information that would be known to the manufacturer. Other information, as it may pertain to customer activities—such as a description of use or intended use or estimated exposure during disposal, processing, distribution, or use—would be considered reasonably ascertainable if the manufacturer could obtain the required information from persons with whom he is dealing.

Persons not subject to the rule include (a) small manufacturers or importers as defined in § 713.11(1); (b) persons who manufacture or import or who propose to manufacture or import PBBs or Tris solely for research and development or as a byproduct or impurity; and (c) persons who import or propose to import PBBs or Tris as part of an article.

The decision to exempt importers of articles from the requirements of this rule is consistent with previous Agency reporting provisions for the Inventory (42 FR 64572 *et seq.*) and the proposed premanufacture notification regulations (44 FR 2242 *et seq.*). These importers would be exempt from this rule because EPA believes that articles containing PBBs do not pose a significant risk to health and the environment, and that, in many instances, importers of articles containing plastic components would not be aware that they contained PBBs. Importers of Tris-treated or Tris-containing articles would also likely not know that they were importing Tris. Moreover, CPSC's rules preclude use of Tris in children's wearing apparel and hence, import of Tris as part of children's wearing apparel is prohibited. This has been the use of greatest concern.

Confidentiality

Any person submitting a notice may claim any part or all of the notice as confidential. Information which is claimed confidential will be disclosed by EPA only to the extent permitted and by means of the procedures set forth in the Agency's business confidentiality rules, 40 CFR Part 2.

Public Comments

During the 60-day comment period following the October 12, 1979 proposal, only seven persons submitted comments. For the most part, the comments were directed at the proposed small business definition and general section 8 authority. The Chemical Manufacturers Association (CMA) submitted numerous comments about section 8 authority in general. CMA in particular notes that the focus of this rule is highly specific and that the proposal represents a useful model for future reporting requirements. CMA urges the Agency to adhere to this model as it develops additional proposals under section 8(a). EPA notes, however, that the highly specialized nature of this rule may not be appropriate when the Agency needs more comprehensive data. In such cases EPA must exercise the broader authority available under section 8(a). EPA does agree with CMA that the Agency must exercise such broader authority in a reasonable and prudent manner and welcomes recommendations from the Association to assist the Agency in effectively using its information gathering authority.

Comment 1: CMA notes that section 8(a)(2) contains a list of subjects about which the Administrator may require records to be kept and reports to be made. This list, consisting of seven categories, includes various information relating to exposure, use, disposal, production volumes, and byproducts. CMA states that the list is all inclusive and represents the only information that EPA may use its reporting authority to obtain.

Response: Since, as CMA admits, this rule does not require reporting of information not on the enumerated list, CMA's comment is not relevant to this rule.

EPA notes, however, that it disagrees with CMA's interpretation. Section 8 is meant to provide information relevant to whether chemicals present unreasonable risks.

EPA interprets the information listed in section 8(a)(2) to illustrate kinds of general information that Congress foresaw as being relevant to determine whether unreasonable risks exist. Nothing in the language of the Act or the legislative history indicates that other information relevant to this determination is excluded from section 8(a). The Legislative History of TSCA very plainly supports EPA's interpretation. (H.R. Rep. No. 94-1679, 94th Cong., 2d. Sess. 80 (1976)).

Comment 2: CMA notes that under section 8(a)(1)(B) of TSCA, reporting requirements which apply to manufacturers (or importers) of mixtures must be "necessary for effective enforcement of this Act." CMA interprets this "necessary for effective enforcement" standard to mean that EPA must need the information to assure that the reporting persons are in compliance with the Act's substantive requirements. The rule proposal indicates that EPA was considering requiring reporting from (1) persons who manufacture mixtures of PBBs and other chemicals, (2) persons who import articles containing PBBs,[1] and (3) persons who import mixtures containing PBBs. CMA argues that the "necessary for effective enforcement" determinations must be made for each of these categories of persons.

Response: The final rule does not require reporting from the first two categories of persons described above. For persons in the United States only the manufacturers of the chemicals themselves must report.[2] Mixture manufacturers are not subject to this rule. Importers of articles are specifically exempt from this rule.

The rule does require reporting by persons who import mixtures containing PBBs or Tris. EPA considers these persons importers of the chemical substances contained in the mixtures. They would be, under TSCA, manufacturers of the chemical substances. For purposes of this rule, therefore, the "necessary for effective enforcement" standard does not apply to these importers.

Nevertheless, EPA disagrees with CMA's interpretation of the "necessary for effective enforcement" standard. EPA believes the phrase should be broadly interpreted in order to enable the Agency to obtain adequate data to protect against unreasonable risks. The "necessary or effective enforcement" standard applies to administrative functions rather than only compliance functions and is designed to prevent EPA from requiring reporting from persons who deal only with mixtures if the Agency could obtain the needed information from manufacturers and processors of substances. This interpretation is supported in the legislative history of the Act.

---

[1] In responding to EPA's statement that the Agency is considering extending the rule to persons who import articles containing PBBs or Tris (44 F.R. 59108), CMA first argues that EPA does not have statutory authority to require reporting by manufacturers or importers of articles, but then notes for the sake of argument that if EPA considers articles a subcategory of mixtures EPA must make the determination that requiring reports on article importing is "necessary for effective enforcement." EPA has decided not to require reporting from importers of articles containing PBBs or Tris. However, the Agency may exercise authority over importers of articles in other section 8 rules.

[2] Note that under the definition of PBBs, a person who reacts biphenyl and bromine and gets a reaction product composed of hexabromobiphneyl and octabromobiphenyl must report as a manufacturer of two chemical substances—hexa- and octa-bromobiphenyl.

The Committee has specified a different standard for requiring reporting for manufacturers or processors of mixtures and research substances because the Committee anticipates that in implementing its regulatory functions the need for information from such manufacturers or processors will not be as great as it will be with respect to other manufactuers or processors. (H.R. Rep. No. 1341, 94th Cong. 2d. Sess., 41 (1976)).

In those cases where there is no other practical way to obtain necessary information on a chemical substance except from persons who manufacture or process mixtures containing that substance, EPA may require those persons to report. If importers of mixtures of PBBs or Tris were considered importers of mixtures for purposes of this rule, EPA could still require reporting from them under the "necessary for effective enforcement" standard. Otherwise, significant amounts of the chemicals could enter the country without EPA's knowledge.

EPA's interpretation is further reinforced by a further statement from Senator Magnuson in the floor debates on the TSCA Conference Report. He emphasized that

"The phrase 'effective enforcement of this Act', should be used broadly. It is not meant to imply that such records and reports may only be required in order to effectively bring an enforcement action under section 16. Rather it should be interpreted to mean requiring records and gathering reports so that authorities of this Act may be invoked if necessary." 122 Cong. Rec. 516, 804 (daily ed. Sept. 28, 1976).

Comment 3: With respect to the proposed small business exclusion, CMA points out that small business standards under section 8 require consultation with the Small Business Administration. CMA argues, further, that section 8(a) provides for one exemption for small manufacturers that applies to all section 8 rules, not the *ad hoc* approach currently taken by EPA.

Response: The Small Business Administration has been consulted about the present rule. As to the single small business exclusion, EPA believes that standards of general section 8 applicability are desirable. We are presently conducting an economic analysis to support generic standards, and plan to propose such standards as soon as practical. The rule-by-rule approach will continue until the generic standards are adopted.

EPA notes that section 8 requires the Agency to develop *standards* for determining the Small Business Exemption. These standards could apply differently depending on the needs and requirements of the applicable rule.

Comment 4: Section 713.11 of the proposed rule defines "propose to manufacture" as a "management decision to commit financial resources toward the manufacture * * *." CMA has suggested a revision of the definition to say, "a *firm* management decision to commit financial resources *for* the manufacture * * *" This revision, it is suggested, will avoid requiring reports from companies that have merely decided to spend a small amount of money on tentative explorations of market possibilities and may or may not actually decide to manufacture the chemical.

Response: For purposes of this rule *only*, we have decided to adopt the suggested revision. The definition of "propose to manufacture PBBs or Tris" has been changed accordingly (see § 713.11(k)). EPA, however, disagrees with CMA's interpretation that *under the statute* the definition of "propose to manufacture" turns on whether or not a company has made a firm management decision.

Comment 5: CMA states that EPA must redefine the term "manufacture for commercial purposes" to exclude byproducts and impurities. CMA asserts that the Agency lacks the statutory authority to require recordkeeping and reporting under section 8 as to these chemicals that have no commercial potential of their own and are produced only as an inadvertent result of manufacturing or processing some other chemical.

Response: We disagree with this comment. EPA interprets the term "manufacture for commercial purposes" to refer to such activities conducted, in whole or in part, for the purpose of obtaining a commercial advantage for the manufacturer.

Chemicals that occur as byproducts or the impurities from the manufacturing of other chemicals are considered to be manufactured "for commercial purposes" even though they may have no commercial purpose separate from the substance, mixture or article to which they are incidental. See Inventory Reporting Regulations 40 CFR Part 710, 4(d); 42 FR 64577 (1977).

Since EPA considers impurities and byproducts to be manufactured "for commercial purposes", the Agency asserts that it has the statutory authority to require recordkeeping and reporting under section 8.

Comment 6: The definition of PBBs includes both monobromobiphenyls and compounds with two or more bromine substitutions per biphenyl molecule. CMA recommends that for precision and clarity, EPA should modify this definition so there is no confusion whether monobromobiphenyls are in fact covered by the reporting requirement.

Response: EPA believes that there is no ambiguity in the definition of PBBs—monobromobiphenyls are included in the definition of PBBs, not the reporting requirements.

Comment 7: A Congressman and a private individual objected to the level set for the poundage component of the small business definition as being too high. But, the Synthetic Organic Chemical Manufacturers Association (SOCMA) agreed with the poundage level for this rule, provided that the reporting requirements of the rule are minimal, but thought the dollar amount was set too low.

Response: We disagree with both objections. EPA based the small business definition on the health effects and production history of PBBs and Tris. EPA is employing a sales cutoff of $500,000, which is based, in part, on the production history of these substances (see Analysis of the Small Business Definition for the PBB and Tris Notice Rule). EPA has detemined that the minimal burden of reporting, compared to the importance of the information the Agency will receive, justifies the low dollar amount.

Even though a very low annual sales figure was used ($500,000), still about half (52%) of the chemical manufacturers (chemicals and allied products, SIC (Standard Industrial Classification) 28 and 10% of SIC 2911) would be exempt from the reporting requirements of this rule. EPA believes that these small firms would not have the financial wherewithal to produce these substances in quantities large enough to penetrate the flame retardant market. However, to guard against the possibility of unreported production of PBBs or Tris in substantial quantities, the poundage requirement above which a manufacturer with sales of $500,000 or less would have to report was set at 10,000 pounds per year. This number is based on consideration of past production figures, which indicates that production below 10,000 pounds would not represent "commercial" quantities of these chemicals.

Comment 8: SOCMA contends that EPA should define the term "small manufacturer" without respect to whether a manufacturer is owned or controlled by another company. A manufacturer who meets the basic criterion should be considered a "small manufacturer" even if the manufacturer's company is owned or controlled by another company.

Response: The legislative history of TSCA makes it clear that in considering which manufacturers and processors

qualify as "small manufacturers and processors", EPA must consider whether the company is owned or controlled by another company and apply the factors for detemining "small manufacturers or processors" to both companies (H.R. Rep. No. 1341, 94th Cong., 2nd Sess., 43 (1976)).

Comment 9: CMA recommends that the definition of "person" should not include "any individual," because it creates the possibility that employees of businesses covered by the rule would have an independent duty to submit reports to EPA. CMA argues this is an impermissible extension of the section 8 reporting requirements, because under TSCA the term "person" denotes only business entities.

Response: EPA disagrees with CMA's interpretation of the term "person." TSCA does not explicitly define "person," but as used in the Act the term clearly includes individuals. For example, section 19, 20, 21, and 23 of TSCA use the term "person" in contexts that do not apply only to business entities. In the enforcement of this rule EPA will take into account the considerable body of law that has developed with respect to the liability of individual employees of business entities. This body of law applies to TSCA.

Comment 10: Section 8(a) authorizes EPA to obtain information that is known to, or "reasonably ascertainable" by, manufacturers and processors. CMA argues that these terms only authorize EPA to require information which already exists and either is or normally would be known to them. CMA asserts that the "reasonably ascertainable" standard applies only to information which a normal business in the submitter's position would usually possess already and that there is no basis under TSCA for requiring reporting companies either to develop new information, or to procure information which they would not normally obtain, simply to comply with section 8. CMA notes that the proposed rule would require reporting of all information called for by EPA and that the final rule must be revised to state that the information need be reported only if it is known to the submitter or "reasonably ascertainable," according to CMA interpretation of the term.

Response: Only information that is "known to or reasonably ascertainable" is to be reported for this rule. Section 713.16(b) now states this explicitly. The notice required by the rule (§ 713.16) would include company name and address; principal technical contact; a description of the use or intended use for PBBs or Tris; estimated exposure during manufacture or importation, disposal, processing, distribution, and use; estimated production volume; and, as appropriate, the proposed date for the resumption of manufacture or import of PBBs or Tris.

We believe that most of the above information is "known to" companies. A company knows the estimated exposure during manufacture, estimated production, proposed date for the resumption of manufacture, and other information about its own activities. Other information as it pertains to the activities of others, such as a description of use or intended use, estimated exposure during disposal, processing, distribution, or use, would be considered reasonably ascertainable if the manufacturer could obtain the required information from persons with whom he is dealing.

We disagree that manufacturers can only be required to report information which already exists and either is, or normally would be, already known to them.

In this rule, information reasonably ascertainable pertains to the activities of others—a description of use or intended use, and estimated exposure during disposal, processing, distribution or use. EPA considers this information reasonably ascertainable because the manufacturer, if he does not already know, could obtain the required information from persons with which he is dealing without incurring an unreasonable burden. The legislative history of TSCA supports this interpretation. H.R. Rep. No. 94-1341, 94th Cong., 2d Sess., 42 (1976).

Comment 11: The proposed rule requires persons who propose to manufacture or import PBBs or Tris to submit reports "as soon as they propose to manufacture or import the substance." CMA contends that this approach would require immediate submission of reports whenever a company makes the decision to manufacture or import a compound covered by the reporting rule. If a company waits even a brief period (*e.g.*, 7 to 10 days) before reporting, it would technically be a violation of the reporting rule—and thus subject to civil or criminal sanctions—for failing to report "as soon as (it) propose(d) to manufacture or import the substance." To eliminate this problem, the rule should provide that reports may be submitted no later than 30 days after a company makes the decision to manufacture or import the chemicals for which reporting is required.

Response: The reporting schedule in § 713.16(a) was changed to partially accommodate this concern. Reporting is required 15 days after a person proposes to manufacture or import PBBs or Tris, which is a reasonable amount of time in which to submit the information required.

Comment 12: Industry contends that the 15 days provided by EPA to supply the required second copy when confidential data are submitted without a second copy from which all information claimed as confidential has been deleted, does not allow the respondent sufficient time to respond. Moreover, under section 14(c) (2) of TSCA, EPA can only disclose information designated confidential if 30 days have passed after the information submitter has been notified of such proposed release.

Response: The rule has been changed to provide 15 days from the date of receipt of notification, not the date of the notification letter, to submit the required second copy, see § 713.17(c)(4). EPA believes that 15 days is an adequate period of time to make a copy of a document previously submitted to EPA.

CMA is correct in interpreting section 14(c)(2) as providing a 30 day notice period before releasing confidential data when those data are submitted in accordance with the provisions of a regulation. However, in this instance, the 15 day notice period is provided to correct deficiencies in the submitted confidential data (absence of the second copy), not to notify a person of the anticipated release of properly submitted confidential data.

Note.—Changes have been made in the rule as indicated in the above responses and for minor clarification purposes.

Public Record

In accordance with the requirements of section 19(a)(3) of TSCA, EPA has established a public record for this rulemaking (docket number OPTS-081—005a). This record is available for inspection in the OPTS Reading Room, 447 East Tower, from 8:00 a.m. to 4:00 p.m. on working days (401 M Street, SW, Washington, DC 20460). This record includes basic information considered by the Agency in developing this rule. Following is a list of the documents which constitutes the record for this rulemaking. Public comments on the proposed rule are not individually listed, but will be available upon request in the OPTS Reading Room.

1. The proposed rule published on October 12, 1979 (44 FR 59106).

2. All comments received on the proposed rule.

3. Documents supporting potential PBB section 6 action.

4. Analysis of the Small Business Definition for the PBB and Tris Notice Rule.

5. "A Survey of Polybrominated Biphenyls (PBBs) Near Sites of Manufacture and Use in Northwestern New Jersey," EPA Report Number—560/13-79-002.

6. Blum, A. and Ames, B. (1977), "Flame-Retardant Additives as Possible Cancer Hazards", Science, *195*: 17-21

7. Blum, A., Gold, M.D., Ames, B. N., Kenyon, C., Jones, F. R., Hett, E. A., Dougherty, R. C., Horning, E. C., Dzidic, I., Carroll, D. I., Stillwell, R. N., and Thenot, J. P. (1978), "Children Absorb Tris-BP Flame Retardant from Sleepwear: Urine Contains the Mutagenic Metabolite, 2,3-Dibromopropanol", Science *201*:1020-1023.

8. CPSC (1977), "An Environmental Assessment of the Effects of CPSC's Action to Ban Children's Garments Containing TBPP," Consumer Product Safety Commission, Bureau of Economic Analysis.

9. CPSC (1977), "Final Report—Subchronic and Radioactive 14.C Tracer Studies of Tris(2,3-Dibromopropyl) Phosphate in Laboratory Rodents," Bureau of Biomedical Science/CPSC.

10. CPSC (1977), Bureau of Biomedical Science, as reported in the **Federal Register**, Vol. 42, No. 68, April 8, 1977.

11. Levin, A.A. (1978), Director of Government Compliance, Velsicol Chemical Corporation, Personal Communication, March 7, 1978.

12. NCI (1978), "Bioassay of Tris(2,3-Dibromopropyl) Phosphate for Possible Carcinogenicity," DHEW Publication No. (NIH) 78-1326.

13. Prival, M., McCoy, E. C., Gutter, B., and Rosenkranz, H.S. (1977), "Tris(2,3-Dibromopropyl) Phosphate: Mutagenicity of a Widely Used Flame Retardant," Science, *195*: 76-78.

14. St. John, L. E., Eldefrawi, M. E., and Lisk, D. J. (1976), "Studies of Possible Absorption of a Flame Retardant from Treated Fabrics Worn by Rats and Humans," Bull, Env. Contam. Toxicol., *15*(2): 192-197.

Note.—EPA has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 16, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 713 is added as follows:

PART 713—REPORTING AND RECORDKEEPING REQUIREMENTS

Submission of Notice of Manufacture or Import of PBBs and Tris

Sec.
713.11 Definitions.
713.12 Scope.
713.13 Compliance.
713.14 Persons who must report.
713.15 Persons not subject to this rule.
713.16 Reporting requirements.
713.17 Confidentiality claims.
713.18 Sunset provision.

Authority: Sec. 8(a), Pub. L. 94-469, 90 Stat. 2027 (15 U.S.C. 2607(a)).

Submission of Notice of Manufacture or Import of PBBs and Tris

§ 713.11 Definitions.

All definitions as set forth in the Toxic Substances Control Act (TSCA) section 3 apply for this rule. In addition, the following definitions are provided for the purposes of this rule.

(a) "Article" means a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

(b) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(c) "EPA" means the United States Environmental Protection Agency.

(d)(1) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States, and includes: (i) The person primarily liable for the payment of any duties on the merchandise, or (ii) an authorized agent acting on his behalf (as defined in 19 CFR 1.11). (2) Importer also includes, as appropriate:

(i) The consignee.

(ii) The importer of record.

(iii) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(iv) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144.

For the purpose of this definition, the customs territory of the United States consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

(f) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(g) "Manufacture" means to manufacture for commercial purposes.

(h)(1) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture,

(i) For commercial distribution, including for test marketing, and

(ii) For use by the manufacturer, including use for product research and development, or as an intermediate.

(2) Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(i) "Person" includes any individual, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(j) "PBBs" (polybrominated biphenyls) means chemical substances the compositions of which, without regard to impurities, consist of brominated biphenyl molecules having the molecular formula $C_{12}H_xBr_y$, where $x+y=10$ and y ranges from 1 to 10.

(k) "Propose to manufacture or import PBBs or Tris" means that a person has made a firm management decision to commit financial resources for the manufacture or import of PBBs or Tris.

(l) "Small manufacturer or importer" means a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to PBBs or Tris which such person manufactured at one site or imported in quantities greater than 10,000 pounds during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(m) "Tris" means tris(2,3-dibromopropyl) phosphate (also commonly named DBPP, TBPP, and Tris-BP).

(n) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

§ 713.12 Scope.

This rule establishes procedures governing reporting by persons who manufacture or import or who propose to manufacture or import Tris, or PBBs which have been reported for the TSCA Chemical Substances Inventory (40 CFR Part 710).

§ 713.13 Compliance.

Violation of the requirements of this rule may result in civil penalty or criminal prosecution, as provided in sections 15 and 16 of TSCA. In addition, under section 17, the Government may seek judicial relief to compel submission of required information.

§ 713.14 Persons who must report.

Except as provided in § 713.15, the following persons are subject to this rule:

(a) Persons who manufacture or propose to manufacture Tris, or PBBs which have been reported for the Inventory.

(b) Persons who import (importers) or propose to import Tris, or PBBs which have been reported for the Inventory, as a chemical substance in bulk or as part of a mixture.

§ 713.15 Persons not subject to this rule.

The following persons are not subject to this rule:

(a) Persons who are small manufacturers or importers, as defined in § 713.11(1).

(b) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris solely for research and development.

(c) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris as a byproduct or impurity.

(d) Persons who import or propose to import PBBs or Tris as part of an article.

§ 713.16 Reporting requirements.

(a) Persons subject to this rule as described in § 713.14 must notify EPA of current or proposed manufacture or import of PBBs or Tris. Persons who are manufacturing or importing PBBs or Tris on the effective date of the rule must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import PBBS or Tris must notify EPA within 15 days when they propose to manufacture or import the substance.

(b) The notice must include, to the extent that it is known to or reasonably ascertainable, the following information:

(1) Company name and address.

(2) Principal technical contact.

(3) A description of the use or intended use for the PBBs or Tris.

(4) Estimated number of persons exposed to the PBBs or Tris during manufacture or importation, processing, distribution, use, and disposal.

(5) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(6) The proposed date for the initiation of manufacturing or importation of PBBs or Tris, if appropriate.

(c) Notices shall be submitted by certified mail to the Document Control Officer, for TSCA, Environmental Protection Agency, Office of Pesticides and Toxic Substances (TS-793), Washington, DC 20460. ATTN: PBB notification or Tris notification.

§ 713.17 Confidentiality claims.

(a) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Part 2 of this title.

(b) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(c) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(1) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential", "proprietary", or "trade secret".

(2) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(d) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(1) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(2) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

(3) The information is not publicly available elsewhere.

(4) Disclosure of the information would cause substantial harm to our competitive position.

§ 713.18 Sunset provision.

The reporting requirements of § 713.16 will terminate on May 1, 1985.

[FR Doc. 80-33180 Filed 10-23-80; 8:45 am]

BILLING CODE 6560-31-M

Reader Aids

Federal Register

Vol. 45, No. 208

Friday, October 24, 1980

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5232
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the Presidents	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders and problems (GPO)	783-3238
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, OCTOBER

64879-65172	1
65173-65492	2
65493-65992	3
65993-66438	6
66439-66768	7
66769-67040	8
67041-67284	9
67285-67628	10
67629-68364	14
68365-68624	15
68625-68910	16
68911-69198	17
69199-69404	20
69405-69846	21
69847-70208	22
70209-70426	23
70427-70734	24

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
305 ..... 68948, 68949

3 CFR

Administrative Orders:

Presidential Determinations:
No. 80-24 of August 7, 1980 (Amended by 80-27 of September 21, 1980) 65993
No. 80-27 of September 21, 1980 65993
No. 80-28 of September 30, 1980 68365

Executive Orders:
11157 66439
12137 (Amended by 12245) 66769
12165 (Superseded by 12248) 69199
12200 (Superseded by 12248) 69199
12241 64879
12242 65175
12243 66439
12244 66443
12245 66769
12246 68367
12247 68625
12248 69199

Memorandum:
October 1, 1980 65177
October 3, 1980 67629

Proclamations:
4797 65173
4798 66441
4799 68369
4800 68369

4 CFR

1 68373
2 68373
3 68373
4 68373
5 68373
6 68373
7 68373
8 68373
9 68373
10 68373
11 68373
12 68373
20 68373
21 68373
22 68373

5 CFR

330 65493
351 66445
530 65493
531 65493
540 65493
734 69776
735 69776

Proposed Rules:
351 69469
410 67669
733 65603

6 CFR

705 ..... 65995, 68629, 69207
706 65502
707 65502

Proposed Rules:
Ch. VII 68396

7 CFR

1 68380
2 ..... 66445, 69405
29 65179
245 67285
246 66447
282 ..... 66448, 69196
301 ..... 65510, 65511
354 67288
403 67289
408 67631
413 67041
431 70209
438 67637
632 ..... 65180, 67047
722 68911
726 67296
730 69408
800 70425
905 67047
906 68381
908 ..... 65181, 68381
910 ..... 65511, 67298, 68912, 70427
915 70210
930 70211
944 67047
948 68912
966 67298
981 68630
982 65512
984 70212
989 ..... 65512, 69210
999 65513
1007 65514
1011 65514
1030 65514
1032 65514
1046 65514
1049 65514
1050 65514
1062 65514
1064 65514
1065 65514

1068 ... 65514
1071 ... 65514
1073 ... 65514
1076 ... 65514
1079 ... 65514
1094 ... 65514
1096 ... 65514
1097 ... 65514
1098 ... 65514
1099 ... 65514
1102 ... 65514
1104 ... 65514
1106 ... 65514
1108 ... 65514
1120 ... 65514
1126 ... 65514
1131 ... 65514
1132 ... 65514
1133 ... 67049
1138 ... 65514
1421 ... 67300, 69409–69415, 70212, 70217
1464 ... 68913, 70221
1492 ... 64881
1493 ... 64894
1701 ... 67306
1865 ... 69847
1942 ... 66771
1945 ... 65996, 69847
1951 ... 69847
1980 ... 65996, 69875
2610 ... 68382
2620 ... 68384
2710 ... 68382
2842 ... 69422
2853 ... 65515
2859 ... 68914

Proposed Rules:
8 ... 70471
210 ... 70473
215 ... 70473
220 ... 70473
230 ... 70473
271 ... 65932
275 ... 65932
277 ... 65932
282 ... 66463
427 ... 68659
622 ... 65603
729 ... 66469
906 ... 68951
911 ... 70278
915 ... 70278
944 ... 68951
966 ... 69245
989 ... 68659
1124 ... 68660
1421 ... 66471
1701 ... 66472
1822 ... 68661
1940 ... 68952
1944 ... 69469
1990 ... 67099

8 CFR
100 ... 70427
215 ... 65515
235 ... 70428
238 ... 70428
245 ... 69429

Proposed Rules:
Ch. I ... 66173

9 CFR
78 ... 64901
82 ... 70429
91 ... 67307
92 ... 67643, 70224
94 ... 65519
106 ... 65183
307 ... 65520
308 ... 68914
350 ... 65520
351 ... 65520
354 ... 65520
355 ... 65520
362 ... 65520
381 ... 65520, 68914

Proposed Rules:
92 ... 67669

10 CFR
Ch. II ... 69211
2 ... 68919, 69877
9 ... 70225
30 ... 65521
40 ... 65521
70 ... 65521
73 ... 67645
150 ... 65521
205 ... 66772
303 ... 67584
305 ... 67584
307 ... 67584
309 ... 67584
790 ... 67308
799 ... 67022, 67038
1009 ... 70429

Proposed Rules:
Ch. I ... 69247
2 ... 66754
20 ... 67118
30 ... 67673
50 ... 70473, 70474
70 ... 66472
150 ... 66473
212 ... 67355
430 ... 65604, 65605
436 ... 66620, 66631
456 ... 66960
457 ... 66970

11 CFR

Proposed Rules:
112 ... 70474

12 CFR
4 ... 68586
5 ... 68586–68607
8 ... 68586
13 ... 68586
14 ... 68586
15 ... 68586
28 ... 68586
201 ... 67055
204 ... 69879
205 ... 66346
206 ... 65184
207 ... 66779
210 ... 68633
211 ... 67056, 67309
220 ... 66779
221 ... 66779
327 ... 67310
526 ... 66781
545 ... 66781, 67059, 67313
563 ... 66781, 67313
611 ... 69880
612 ... 69881
618 ... 69887
1204 ... 68640

Proposed Rules:
Ch. V ... 67674
5 ... 68611, 68612
202 ... 69470
205 ... 66348, 66349
400 ... 68963
545 ... 66798, 66801
760 ... 68396

13 CFR
101 ... 67316, 68385, 69887
302 ... 67062
303 ... 67062
305 ... 65997, 67062
309 ... 67062

Proposed Rules:
111 ... 66807
118 ... 68398
119 ... 68399
120 ... 66174, 66807

14 CFR
21 ... 67064
23 ... 70386
36 ... 67064
39 ... 65193, 65997–65999, 67067–67070, 67645–67653, 68645, 70225–70233
43 ... 67214
71 ... 66002, 67070–67072, 67654, 67655, 68645, 69212, 70234–70236
73 ... 70236–70237
75 ... 67656
91 ... 67214, 67258
95 ... 67072
97 ... 65197, 69212
121 ... 67214, 68646
123 ... 67214
125 ... 67214
127 ... 68646
135 ... 67214, 68646
145 ... 67214
159 ... 70237
241 ... 67656
243 ... 66451
287 ... 64902
399 ... 70431
1212 ... 67079

Proposed Rules:
Ch. I ... 67100
Ch. V ... 66177
21 ... 67677
39 ... 66175, 67678, 67679, 68661
71 ... 67176, 67101, 69247, 70279–70281
73 ... 67102
75 ... 70281
93 ... 69403
121 ... 67103, 67283
135 ... 67283
203 ... 66473
298 ... 67680
398 ... 67357
399 ... 66474, 67357

15 CFR
370 ... 65206
372 ... 65206
375 ... 65206
386 ... 65206
935 ... 65198
2301 ... 69430

Proposed Rules:
30 ... 65250, 68965
400 ... 67681
1001 ... 70475

16 CFR
1 ... 67317
3 ... 67317
13 ... 66784, 67319, 68650
460 ... 68920–68929
1021 ... 69433
1201 ... 66002
1212 ... 68930
1700 ... 65538

Proposed Rules:
1 ... 67359
13 ... 65252, 65255, 67360, 68399, 69470
239 ... 68399
441 ... 66809
444 ... 66474
455 ... 66810
1307 ... 68662

17 CFR
140 ... 70441
200 ... 67659
211 ... 68388
230 ... 67079, 67659
271 ... 67082
274 ... 67079, 67659

Proposed Rules:
4 ... 65257, 69248
229 ... 68965
230 ... 69476, 69909
239 ... 67079, 67659, 68965, 69909
240 ... 69248, 69911
249 ... 69248
270 ... 69479

18 CFR
1 ... 65170
141 ... 68389
154 ... 67083
270 ... 67083
282 ... 65170, 65207, 67276, 68389
284 ... 66784
292 ... 66787

Proposed Rules:
Ch. I ... 70476
2 ... 66810
141 ... 70476
270 ... 66810
271 ... 65606–65608, 66810–66812, 69929–69931
282 ... 67279

19 CFR
353 ... 64902, 64903
355 ... 70442, 70443

Proposed Rules:
148 ... 70476

20 CFR
404 ... 65540, 68931
416 ... 65541

Proposed Rules:
404 ... 69248
416 ... 69248

21 CFR
5 ... 68932
101 ... 67319

175 ... 67320
177 ... 67320
178 ... 70444
193 ... 64903, 65559
520 ... 68933
561 ... 64904
808 ... 67321-67326
812 ... 67338
880 ... 69678
Proposed Rules:
165 ... 69816
178 ... 70477
180 ... 69817
182 ... 69840
358 ... 69122
436 ... 68971
446 ... 68971
546 ... 68971
801 ... 69840

22 CFR
142 ... 69437
216 ... 70239
217 ... 66414
Proposed Rules:
51 ... 70249
213 ... 65258
357 ... 65609
358 ... 65609
444 ... 65618
801 ... 65619
899 ... 65619

23 CFR
260 ... 67091
450 ... 69390, 70249
476 ... 69390
Proposed Rules:
630 ... 68663
1217 ... 70282

24 CFR
115 ... 65560
300 ... 69888
Proposed Rules:
51 ... 65258
144 ... 67682
146 ... 67682
204 ... 67682
242 ... 67682
570 ... 67682, 68973
803 ... 67682
882 ... 67682
888 ... 67682
891 ... 67682

25 CFR
151 ... 69445
252 ... 64906
700 ... 67338
Proposed Rules:
120 ... 70284
171 ... 69932
172 ... 69932
173 ... 69932
177 ... 69932
182 ... 69932
233 ... 64960

26 CFR
1 ... 64906, 65560
48 ... 66452, 69214
301 ... 65561, 65564
404 ... 65561, 65564
420 ... 65564
Proposed Rules:
1 ... 65625, 67360, 68399, 70478
25 ... 69933
48 ... 69933
301 ... 70478
601 ... 68399

27 CFR
5 ... 66454
6 ... 66007
19 ... 70251
Proposed Rules:
5 ... 69249
13 ... 69249
19 ... 69249
170 ... 69249
173 ... 69249
186 ... 69249
194 ... 69249
195 ... 69249
196 ... 69249
197 ... 69249
200 ... 69249
201 ... 69249
211 ... 69249
212 ... 69249
213 ... 69249
231 ... 69249
240 ... 69249
250 ... 69249
251 ... 69249
252 ... 69249

28 CFR
2 ... 66789
50 ... 69214
Proposed Rules:
Ch. I ... 66813

29 CFR
32 ... 66706
1601 ... 68933
401 ... 70444
1903 ... 65916
1910 ... 67339
1960 ... 69796
2610 ... 64907
Proposed Rules:
Ch. XII ... 64960
4 ... 70479
452 ... 65926
1910 ... 67361
1926 ... 67361
1955 ... 65625
1956 ... 66475
2608 ... 65259

30 CFR
28 ... 68934
55 ... 68934
56 ... 68934
57 ... 68934
70 through 90 (Subchapter O) ... 68934
722 ... 67500
784 ... 64908
817 ... 64908
918 ... 67340
926 ... 70445
Proposed Rules:
Ch. II ... 68665
732 ... 64961, 69482
761 ... 66178
884 ... 70510
886 ... 70480
901 ... 68673
913 ... 70480
915 ... 68673
917 ... 69940
931 ... 65626
935 ... 64962
936 ... 67361
938 ... 69970
942 ... 67372
944 ... 70481
946 ... 70510
946 ... 69977
948 ... 69249
950 ... 64971

31 CFR
Proposed Rules:
Ch. II ... 67395, 68402
10 ... 68686

32 CFR
199 ... 64909, 70252
650 ... 69215
651 ... 69215
706 ... 66007, 66008, 69447
800 ... 64909
Proposed Rules:
Ch. XVI ... 67682
28f ... 68686
553 ... 66476

33 CFR
110 ... 68651
144 ... 65207
165 ... 66009
Proposed Rules:
117 ... 66178
150 ... 65480
207 ... 70511

36 CFR
28 ... 65575
Proposed Rules:
Ch. IX ... 70000
7 ... 68687, 70287
1228 ... 66179

38 CFR
3 ... 64909, 67091
21 ... 67092
Proposed Rules:
3 ... 66815, 68403

39 CFR
10 ... 68651
3000 ... 65575
3001 ... 65575
Proposed Rules:
111 ... 70287

40 CFR
52 ... 70448
60 ... 66742
80 ... 65581
81 ... 65585, 67345, 67348
85 ... 67578
86 ... 66952, 66984
122 ... 68391
124 ... 68391
125 ... 65942
180 ... 64910, 65209, 67350, 68391
205 ... 65594
Proposed Rules:
Ch. I ... 67395
6 ... 67396
50 ... 67564
51 ... 67564
52 ... 70513
55 ... 68406
58 ... 67564
60 ... 68616
61 ... 68514
80 ... 66479-66483
81 ... 70514
123 ... 65263, 65632, 68693, 68979, 68980, 70287
125 ... 68328
162 ... 66736
163 ... 65633
173 ... 65633
180 ... 66484, 67398
201 ... 66485
261 ... 68409
264 ... 66816
423 ... 68328
712 ... 66180
713 ... 70728
762 ... 66726
770 ... 68410
773 ... 68411

41 CFR
Ch. 18 ... 65210, 65213
Ch. 101 ... 65146, 68936
1-3 ... 67350
1-4 ... 66014
1-6 ... 66013
1-15 ... 67350
3-3 ... 64911
5-30 ... 67659
5A-30 ... 67659
5B-1 ... 67663
60-4 ... 65976
101-2 ... 68653
101-19 ... 67664
Proposed Rules:
101-11 ... 64978

42 CFR
57 ... 68890
122 ... 69740
123 ... 69740
405 ... 64913
421 ... 64912
442 ... 64913
447 ... 64913
466 ... 67542
Proposed Rules:
52c ... 68392
57 ... 68902
431 ... 70516

43 CFR
2650 ... 70204
Proposed Rules:
7 ... 66370
20 ... 66370
3300 ... 69174
4100 ... 68506
4110 ... 68506
4120 ... 68506
4130 ... 68506
4140 ... 68506
4150 ... 68506
4160 ... 68506

4170 68506
Public Land Orders:
5752 67093
5756 66455
5768 67094

44 CFR

64 70451
65 ..... 66016, 69451
67 70452
81 67666
302 64913
351 69904
Proposed Rules:
10 67686
67 ..... 67686–67695, 68412, 69483–69494, 70007–70022

45 CFR

76 67262
260 66666
400 64926
1000 ..... 64926, 65220
1061 ..... 64926, 65220, 66462, 67094
1062 ..... 64936, 65229
1067 ..... 64926, 64936, 64940, 65220, 65229, 65233, 69244
1068 ..... 64940, 65233, 69244
1069 ..... 64940, 65233, 69244
1321 69458
1328 69458
Proposed Rules:
80 69272
205 70521
121h 69378
305 69495
1176 65635
1300 66180

46 CFR

Ch. I 65242
10 69238
12 69238
67 70261
90 69243
150 70262
151 70262
153 70262
154 70262
157 69238
175 69243
276 68393
385 66167
522 66795
Proposed Rules:
150 67708
521 66485
530 67711

47 CFR

0 64949
13 68937
21 70468
22 65597
68 67352
73 ..... 64950–64951, 67352, 67353, 69460–69464, 69908
76 70468
81 68937
83 68937
87 68937
94 67094
Proposed Rules:
15 70023
73 ..... 64981–64951, 65637, 67399, 67400, 69178, 69496–69502, 70023
81 65639
90 ..... 67401, 69504
94 70023
95 67401

48 CFR

Proposed Rules:
4 65640
9 65640

49 CFR

23 67667
172 68653
175 68653
192 70390
193 70390
531 67095
571 67095
575 70273
660 68655
830 65243
1011 64959
1033 ..... 64954–64958, 65243, 65601, 66459, 66796, 67096, 68394, 68395, 68656, 68938
1038 65601
1045 68941
1048 66460
1100 ..... 64958, 68943, 69908
1101 64959
1310 67667
Proposed Rules:
171 69272
173 69272
177 69272
178 69272
393 ..... 65264, 67107
396 70288
531 67108
571 68694
654 70412
1034 68696
1039 65641
1201 65641
1241 65641
1244 68973
1248 70030

50 CFR

10 64952
13 64952
14 64952
17 ..... 64132, 69360
20 ..... 69467, 70274
21 70275
23 69844
32 ..... 64953, 65244, 67097, 68946, 70276–70277
227 66460
258 70468
611 ..... 67667, 70277
651 66461
653 65246
655 70277
672 67667
810 69844
Proposed Rules:
Ch. I 70031
17 ..... 66410, 68886, 68975, 70192, 70198
285 68412
296 65264
320 70032
611 70523
651 64996
652 68698
656 70525
657 70525
674 70525

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

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

GENERAL SERVICES ADMINISTRATION

66009 10-6-80 / Automatic data processing contracting

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms—

63242 9-23-80 / Unlawful trade practices under the Federal Alcohol Administration Act

[Corrected at 45 FR 66007, 10-6-80]

List of Public Laws

Last Listing October 23, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 1156 / Pub. L. 96-482 Solid Waste Disposal Act Amendments of 1980 (Oct. 21, 1980; 94 Stat. 2334) Price $1.75.

S. 2725 / Pub. L. 96-483 To extend certain authorizations in the Clean Water Act, and for other purposes (Oct. 21, 1980; 94 Stat. 2360) Price $1.

PRINCIPLES OF REGULATIONS WRITING SEMINAR

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
The Principles of Regulations Writing Seminar covers the following concepts:

1. How to prepare for drafting: adopting a style manual, knowing your audience.
2. How to draft a regulation: organizing a regulation to make it easier for the reader, using consistent clear language, avoiding jargon and legalese, and reviewing and redrafting systematically.
3. How to prepare a regulation to comply with **Federal Register** publication requirements: writing an effective preamble and explaining how the regulation amends the Code of Federal Regulations.

WHO: Any Federal employee who drafts documents or who reviews for substance documents that are published in the **Federal Register.**

WHEN: November 19, 1980; January 21, 1981; February 25, 1981; May 13, 1981

HOW: Register for the class by sending a training authorization form to us. After we receive your training authorization form, we will mail you a confirmation letter that will serve as an admission ticket to the class. Tuition will not be charged for an applicant who cancels a confirmed reservation five work days before the day of the class. Someone may substitute for the applicant if the agency training office approves.

WHERE: Send your training form to: Principles of Regulations Writing Seminar, Office of the Federal Register, NARS, Washington, D.C. 20408. The class will be held in Washington, D.C., at 1100 L Street N.W. in Room 9407.

COST: $75 for each person.

FOR MORE INFORMATION: Phone Viola Wilson (202) 523-5240.

Just Released

Code of Federal Regulations

Revised as of April 1, 1980

Quantity	Volume	Price	Amount
_____	Title 26—Internal Revenue (Parts 1, §§ 1.0—1.169)	$8.50	$_____
_____	Title 26—Internal Revenue (Parts 300 to 499)	6.00	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		