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BOOK 1:
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federal register

Book 1 of 2 Books
Friday, November 21, 1980

Highlights

77144 **Grant Programs—Social** HHS/Sec'y seeks applications from university-based agencies, organizations and institutions for a grant that would support a Poverty Research Center; apply by 1–30–81

76937 **School Breakfast and Lunch Programs** USDA/FNS amends national programs relating to competitive foods; effective 11–18–80

77258 **Food Stamps** USDA/FNS defines activities related to the Food Stamp Program for which State agencies will be held financially liable; effective 12–22–80; comments by 1–21–81 (Part II of this issue)

77043 **Nitrites in Bacon** HHS/FDA concludes that nitrites in bacon are not "color additives"; effective 12–22–80

77095 **Aged** USDA/FNS sets level of assistance in food commodities provided to recipients of grants or contracts for operation of nutrition services for the elderly; effective 10–1–80

77139 **Grant Programs—Social** HHS/HDSO announces the acceptance of applications for funds under the Research and Development Projects in Aging Program; apply by 1–23–81

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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.

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77384 **Recombinant DNA Research** HHS/NIH releases guidelines (Part VII of this issue)

77372 **Recombinant DNA Research** HHS/NIH publishes actions under guidelines; effective 11–21–80 (Part VI of this issue)

77028 **Veteran Housing** VA has incorporated by reference the Minimum Property Standards for One and Two Family Dwellings; effective 8–7–79

77050 **Veterans** VA proposes requirement of at least 40 hours of agricultural employment for veterans pursuing farm cooperative courses; comments by 12–22–80

77112 **Grant Programs—Education** ED announces the acceptance of applications for new awards under the Minority Institutions Science Improvement Program; apply by 1–30–81 for Institutional, Design and Cooperative Project Awards; apply by 3–2–81 for Special Project Awards

77038 **Energy** Commerce/NOAA intends to provide licensing process to facilitate development of ocean thermal energy conversion (OTEC) facilities and plantships; comments by 1–16–81; hearing on 1–7–81

77332 **Environmental Protection** EPA proposes a portion of its standards for development of certain data on physical and chemical characteristics of substances and proposes good laboratory practice (GLP) standards for the development of data on physical, chemical, persistence and ecological effects of chemical substances; comments by 1–21–81; meetings on both proposed rules on 2–10–81 (2 documents) (Part IV of this issue)

76968 **Nuclear Materials** NRC establishes criteria and procedures for determining access to or control over special nuclear material; effective 2–4–81

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77222 **Sunshine Act Meetings**

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

[Amdts. 42 and 34, respectively]

National School Lunch Program and School Breakfast Program; Competitive Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: Food and Nutrition Service amends the National School Lunch Program and the School Breakfast Program regulations relating to competitive foods. The "competitive foods" regulations, when taken as a whole, prohibit the sale of categories of foods of minimal nutritional value during specific periods of the school day, in schools participating in the National School Lunch and School Breakfast Programs. These amendments implement the requirements of a court order, issued on June 27, 1980, in two consolidated cases, *Community Nutrition Institute v. Bergland* and *National Soft Drink Association v. Bergland*, (D.D.C.) to provide, that no food may be exempted from the restricted sale requirements by virtue of fortification with nutrients.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250, (202) 447-9069. A copy of the final impact statement can be obtained from Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250, (202) 447-9069.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

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

This action implements the order issued by the U.S. District Court in *Community Nutrition Institute v. Bergland and National Soft Drink Association v. Bergland* (D.D.C.).

The Court's order, which is discussed below, directs the Secretary to take certain actions with respect to the "competitive foods" regulation. Because these actions are mandated by court order rather than discretionary on the part of the Secretary, the Department has determined that solicitation of public comments would be impracticable and unnecessary.

Furthermore, because the petition submission schedule published in the **Federal Register** on October 31, 1980, (45 FR 72081) dictates that petitions for exceptions must be submitted by November 15, 1980, for the following school year, an emergency situation exists which warrants the immediate effectiveness of these amendments.

Background

The Food and Nutrition Service published a final rule in the **Federal Register** on January 29, 1980 (45 FR 6758), which amended 7 CFR Part 210, National School Lunch Program, and 7 CFR Part 220, School Breakfast Program, to implement Section 10 of the Child Nutrition Act of 1966, as amended by Section 17 of Pub. L. 95-166.

Sections 210.15(b)(1) and 220.12(b)(1) provide an exception procedure. Persons may request FNS to permit the unrestricted sale of an individual food in a category of foods of minimal nutritional value, if the food contains sufficient nutrients to satisfy the minimum nutritional value standard, §§ 210.2(h-1) and 220.2(i-1), used to determine the categories of foods which are of minimal nutritional value.

The petition procedure was developed to assure that no individual food which satisfies the standard is classified as a food of minimal value because of membership in a category of foods determined to be of minimal nutritional value.

On June 27, 1980, the U.S. District Court ordered that:

The petition procedure set forth at 21 CFR 210.15(b)(1) shall not be invoked to exempt particular foods from the four restricted categories on the basis of fortification.

To implement this order, §§ 210.15(b)(1) and 220.12(b)(1) are amended to indicate that for the purpose of determining whether a food should be exempted from a category of foods determined to be of minimal nutritional value, nutrients added to the food will not be considered.

Further, in order to implement the Court's order, the definition of soda water has been amended to preclude the removal of a product from the soda water category by adding nutrients to it.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. Accordingly, Appendix B, paragraph (l) of Part 210, National School Lunch Program, and Part 220, School Breakfast Program, is amended by revising definition (l) as follows:

Appendix B—Categories of Foods of Minimal Nutrition Value

* * * * *

(l) Soda Water—As defined by 21 CFR 165.175 Food and Drug Administration Regulations, except no product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals, and proteins.

* * * * *

§ 210.15b [Amended]

2. Section 210.15(b)(1), is amended by adding at the end of that paragraph the following sentence: * * * In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

PART 220—SCHOOL BREAKFAST PROGRAM

§ 220.12 [Amended]

3. Section 220.12(b)(1) is amended by adding at the end of that paragraph the following sentence: * * * In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

(Sec. 10, Child Nutrition Act, (42 U.S.C. 1779))

(Catalog of Federal Domestic Assistance Programs Nos. 10.553 and 10.555)

Dated: November 12, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36290 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 713

[Amendment 3]

Feed Grain, Upland Cotton and Wheat Programs for Crop Years 1978-1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires feed grain, upland cotton, and wheat producers who do not refund an overpayment within 30 days of the billing date to pay interest on the overpayment. It also changes the interest rate charged to producers who it is determined obtained an overpayment through misrepresentation. This rule is needed to improve the effectiveness of the program and will provide more equitable treatment to producers.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7633. The Final Impact Statement describing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." Program titles and numbers from the "Catalog of Federal Domestic Assistance" are Cotton Production Stabilization, 10.052; Feed Grain Stabilization, 10.055; and Wheat Production Stabilization, 10.058. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

On Friday, July 18, 1980, a proposed rule was published (45 FR 48151) outlining the changed requirements relating to interest and inviting public comment. No comment was received, nor has any event changed the desirability of the change outlined therein. The proposed rule included changes applicable to the rice program. These changes will be included in a separate final rule.

Under the current regulations, all payments made to producers under the feed grain, upland cotton, and wheat programs (7 CFR Part 713) which are not earned by the producer must be refunded to the Agricultural Stabilization and Conservation Service (ASCS). Interest is not charged on these overpayments where a producer actually earned a part of the same type of payment (i.e., deficiency and disaster, diversion) for any crop or where the payment was erroneously made to a producer through no fault of that particular producer. Interest is charged in all other cases from the date of payment to the date of refund.

This final rule amends and supplements the current rules as follows:

1. The current rules do not distinguish between the producer who deliberately misrepresents a fact involving program requirements and the producer who does not. For example, when advance payments are made under the programs, a producer can receive an advance payment based on an honest intention to comply with the program requirements, change his or her mind, and have to refund the payment. This producer would currently be charged the same rate of interest as one who received advance payments under the programs but never had any intention of complying with program requirements. Under this final rule, producers who are determined to have misrepresented a fact involving program requirements or who are determined to have engaged in a scheme or device to defeat the purpose of the program would be liable for payment of interest on the principal amount of the program payment at the rate of 18 percent per year from the date of the payment to the date of the refund.

2. The current rules do not provide adequate incentive for a producer to refund overpayments made under the programs. Under the regulations now in effect, a producer is not charged interest with respect to program overpayments when a producer earns part of the same type of payment for any crop. Thus, the producer, in effect, has an interest-free loan until the overpayment is refunded. Under this final rule, a producer who does not refund an overpayment within 30 days from the billing date (date of the issuance of the letter demanding refund of the program overpayment) will be charged interest from the billing date until such refund is made.

These changes are in general conformance with the overall policy for the Federal Government set by the Federal Claims Collection Standards (4 CFR Part 101).

Accordingly, the regulations appearing at 7 CFR Part 713 are amended as follows:

Final Rule

1. Section 713.15 is amended by revising paragraph (e) to read as follows:

§ 713.15 General payment provisions.

* * * * *

(e) *Unearned Payments and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are due and payable to CCC within 30 days from the date of billing.

(1) Effective with respect to determinations of overpayments made after enactment of this rule, refunds not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Parts 713 or 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 or 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section shall accrue interest from the date of disbursement until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

2. Section 713.22 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 713.22 Misrepresentation and scheme or device.

* * * * *

(c) Refunds determined to be due CCC after enactment of this rule under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

(Secs. 103(f), 105A, 107A, 91 Stat. 934, 91 Stat. 928, 91 Stat. 921, 94 Stat. 119; (7 U.S.C. 1444(f),

7 U.S.C. 1444c, 7 U.S.C. 1445b, 7 U.S.C. 1421 note, 7 U.S.C. 1309))

Signed at Washington, D.C. on November 6, 1980.

Ray Fitzgerald,

Administrator, ASCS.

[FR Doc. 80-38061 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 718

[Amendment 5]

Determination of Acreage and Compliance

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations at 7 CFR Part 718 which govern the determinations of acreage and compliance under the production adjustment and marketing quota programs administered by the Agricultural Stabilization and Conservation Service (ASCS). These changes in the regulations are required in order to conform with changes mandated by the enactment of the Agricultural Adjustment Act of 1980, (Pub. L. 96-213, 94 Stat. 119 approved March 18, 1980) and to improve the administration of the programs.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: H. Woodrow Jones, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447-3472. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

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

This rule allows for an administrative variance between determined acreage and program requirements for marketing quota crops and a tolerance for error in planting and reporting normal crop acreage (NCA) crops (i.e. crops that are included in the NCA as provided for in 7 CFR Part 792).

The present regulations provide that the State ASC Committee could select one of two methods for determining compliance: (1) measure all farms or (2) measure selected farms. This final rule deletes the provisions allowing measurement of all farms in a county as a means of determining compliance with any NCA requirements applicable to NCA crops planted on farms in the county. Measurement of all farms in the county will be utilized as the means of determining compliance for most marketing quota crops. This final rule also provides other changes to clarify administrative procedures utilized in determining crop and land use acreages for 1980 and subsequent crop years for marketing quota crops, program crops, and other price-supported crops, and includes provisions for determining total NCA, set-aside, and voluntary diversion acreages.

Since producers are engaged in farming operations for the 1980 crop and are affected by the changes provided by this rule, the Deputy Administrator has determined in accordance with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044 that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments and to engage in public rulemaking procedure prior to the rule becoming effective, and that good cause exists for the rule becoming effective immediately upon publication. However, a 60-day comment period will be in effect upon publication of these final rules in the **Federal Register.** Any comments which are offered during the public comment period on any of the regulations contained in 7 CFR Part 718, will be evaluated and considered for their applicability. In compliance with Secretary's Memorandum No. 1955 and final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving Government Regulations" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR Part 718 for need, currency, clarity, and effectiveness, that no additional changes be made at this time; and review of these regulations contained in 7 CFR Part 718 for need, currency, clarity, and effectiveness, is planned to take place within the five years subsequent to publication of these rules.

Final Rule

Accordingly, the regulations at 7 CFR Part 718 are amended as follows:

1. Section 718.1 is amended to read as follows:

§ 718.1 Applicability.

The provisions of this part apply to compliance determinations for 1980 and subsequent years as authorized by the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, with respect to the programs administered by the Agricultural Stabilization and Conservation Service (ASCS) through State and county committees.

2. Section 718.2 is amended by: (1) revising paragraph (b)(1); (2) revising paragraph (b)(3); (3) revising paragraph (b)(6); (4) deleting paragraph (b)(10); (5) redesignating paragraphs (b)(11) through (b)(19) as paragraphs (b)(10) through (b)(18); (6) adding a new paragraph (b)(19); and (7) adding a new paragraph (b)(21), to read as follows:

§ 718.2 Definitions.

* * * * *

(b) * * *

(1) *Administrative variance.* For marketing quota crops, a prescribed amount within which the determined acreage can differ from a program requirement and still be considered as having met the program requirement.

* * * * *

(3) *Determined acreage.* That acreage established by a representative of the Department of Agriculture by use of official acreage, planimetry of areas on the photograph or other photographic image or computations from scaled dimensions or ground measurements.

* * * * *

(6) *Field assistant.* Person employed to secure data necessary for ascertaining producer adherence to requirements for receiving program benefits as set forth in this chapter.

* * * * *

(19) *Tolerance.* For crops, other than sugar beets or sugar cane, which comprise the normal crop acreage (NCA), as provided for by 7 CFR 792.2, a prescribed amount within which the reported acreage can differ from the determined acreage or program requirements, and the reported acreage can still be considered as correctly reported. Also, the prescribed amount within which the determined acreage can vary from the program requirements and still be considered as having met the program requirements.

* * * * *

(21) *Variance.* Administrative variance as it applies to marketing quota crops and tolerance as it applies to crops, other than sugar beets or sugar cane, which comprise the normal crop acreage (NCA).

* * * * *

3. Section 718.4 is amended by revising paragraph (b)(1)(v) and by revising paragraph (c) to revise the provision for Georgia and add a provision for Vermont as follows:

§ 718.4 Committee responsibilities.

* * * * *

(b) * * *

(1) * * *

(v) Prescribe a method for use by each county committee to determine compliance by either ground measurement or aerial observation of all farms within a county on which marketing quota crops are grown and of selected farms on which crops are grown which comprise the normal crop acreage (NCA).

* * * * *

(c) * * *

* * * * *

Georgia

Remeasurement refund. One-tenth acre.

* * * * *

Vermont

Minimum row width: Thirty inches for corn for silage.

* * * * *

4. Section 718.5 is amended by revising paragraph (a)(3) and by revising paragraph (c) to read as follows:

§ 718.5 Producer services.

(a) * * *

* * * * *

(3) When the request is made in connection with a late filed farm operator report of acreage and evidence of (i) the existence of the crop, (ii) the use made of the crop, (iii) the lack of crop, or (iv) a disaster condition affecting the crop, is not available for inspection and acreage determinations.

* * * * *

(c) *Guaranteeing service.* When a producer requests, pays for, and receives written notice that producer services have been furnished, compliance with program requirements relating to the measured acreage shall be guaranteed for the current year even if an error in the producer services is discovered in the measurement, placement of field or subdivision lines, planimetry or computations, when the producer has taken action based on the service and the entire crop or land use acreage required for the farm was measured. If the producer has not taken action based on the producer services, the producer shall be notified in writing that an error was discovered and the nature and extent of such error. In such cases, the corrected acreage will be used for determining program compliance for the current year.

* * * * *

5. Section 718.6 is amended by revising paragraphs (a)(1) and (a)(2), deleting paragraph (a)(3), and revising paragraphs (c)(1), (c)(2) and (g)(3) to read as follows:

§ 718.6 Determining farm operator adherence to program requirements.

(a) * * *

* * * * *

(1) *Accepting a late filed report.* A farm operator's report may be accepted after the established date for reporting if evidence of (i) the existence of the crop, (ii) the use made of the crop, (iii) the lack of crop, or (iv) a disaster condition affecting the crop, is still evident for inspection and determination. The farm operator shall pay the cost of a farm visit by an authorized Agricultural Stabilization and Conservation Service employee unless the county committee determines that the producer's failure to file the farm operator's report was caused by a condition beyond the producer's control.

(2) *Revised report.* The farm operator may revise a report of acreage to alter the acreage reported. Revised reports shall be used in accordance with instructions issued by the Deputy Administrator and accepted: (i) for all crops and land uses at any time provided evidence of the crop, use of the crop, lack of crop, or disaster condition, is still apparent; and (ii) for cotton and rice, to reflect that the harvested acreage is less than the planted acreage any time up to furnishing production evidence to the county office.

* * * * *

(c) * * *

(1) *Administrative variance.* Administrative variance is applicable to all marketing quota crop acreages. Marketing quota crop acreages as determined in accordance with this Section 718.6 shall be deemed in compliance with the effective farm allotment or program requirement (110 percent of the effective farm allotment for flue cured tobacco when agreement is made to leave four lower leaves unharvested) when determined acreage does not exceed the effective farm allotment by more than the larger of 0.1 acre or 2 percent of the allotment.

(2) *Tolerance.* Tolerance is applicable to those crops that comprise the normal crop acreage (NCA), except for sugar beets and sugar cane. For NCA crops for which price support is available, except sugar beets and sugar cane, program requirements shall be considered to have been met provided the reported acreage does not differ from the acreage determined in accordance with this part, or the reported or determined acreage does not differ from program requirements relating to NCA, set-aside or voluntary diversion by more than the larger of 1.0 acre or 5 percent of the reported acreage but not to exceed 40 acres. A reported acreage of an irrigated and nonirrigated crop on the same farm be considered separately in applying the tolerance.

* * * * *

(g) * * *

(3) *Adjustment Credit.* Acreage may be adjusted for the purposes of program compliance as provided for in Section 718.11 of this part only when the areas on which the land use is altered are of reasonable shape and of reasonable number. In addition one of the following criteria must be met:

(i) The area must be at least four links (approximately 32 inches) in width and contain at least 0.03 acre for tobacco or 0.1 acre for all other crops and land uses. If an area was ineligible for deduction, it may be enlarged to meet these minimum requirements for adjustment credit.

(ii) An entire field or subdivision is adjusted.

(iii) The area being adjusted constitutes the total excess or deficient acreage of the crop or land uses for the farm.

(iv) The area being adjusted is the remaining area required for adjustment after adjusting entire fields or subdivisions.

* * * * *

6. Section 718.11 is amended by revising paragraphs (b), (d), and (e) to read as follows:

§ 718.11 Adjustment of Acreages.

* * * * *

(b) *Peanuts.* The farm operator may adjust an acreage of peanuts by disposing of the excess peanuts prior to combining, picking, or threshing any peanuts of the same type on the farm. Such disposition of excess peanuts must be accomplished by:

(1) Leaving the peanuts in the ground. Peanuts disposed of in this manner may be hogged off.

(2) Harvesting as green peanuts for boiling when the excess acreage is designated for disposal as green peanuts.

(3) Plowing peanuts under before any peanuts are dug from the ground. The disposition of peanuts in this manner shall be witnessed by a representative of the Agricultural Stabilization and Conservation Service when such peanuts could be harvested for nuts.

(4) Plowing under or shredding, under the supervision of a representative of the Agricultural Stabilization and Conservation Service, dug peanuts:

(i) Which are damaged to the extent that it would not be economically feasible to thresh the dug peanuts for nuts, or

(ii) Which the county committee, with the concurrence of the State committee,

determined were in excess of the farm allotment and were inadvertently dug from the ground.

(5) Any other method authorized by the Deputy Administrator and supervised by a representative of the Agricultural Stabilization and Conservation Service when unusual circumstances justify special handling.

* * * * *

(d) *ELS Cotton.* The farm operator may adjust the acreage to the allotment before harvest begins.

(e) *NCA Crops and Set-Aside (including voluntary diversion).* The farm operator may adjust:

(i) NCA crop acreage anytime before harvest; however, adjusting the acreage may not result in producer eligibility for payments based on the higher established "target" price as provided for by the Agricultural Adjustment Act of 1980 unless adjustment is made: (A) before the final reporting date; and (B) provided the tolerance was not found to have been exceeded as a result of a farm inspection.

(ii) Set-aside (including voluntary diversion) by designating additional acreage as set-aside or diverted acreage, provided the land meets, and has throughout the crop year met, all eligibility requirements.

(Sec. 314, 373, 374, 375, 52 Stat. 48, as amended; 52 Stat. 65, as amended, 52 Stat. 66 as amended; (7 U.S.C. 1314, 1373, 1374, 1375))

Signed at Washington, D.C. on November 12, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-36113 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 730

[Amendment 2]

Rice Programs for Crop Years 1978-1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires Rice Producers who do not refund an overpayment within 30 days of the billing date to pay interest on the overpayment. It also changes the interest rate charged to producers. This rule is needed to improve the effectiveness of the Rice program and will provide more equitable treatment to producers.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7633. The Final Impact Statement describing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." Program title and number from the "Catalog of Federal Domestic Assistance" is Rice Production Stabilization, 10.065. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

On Friday, July 18, 1980, a proposed rule was published (45 FR 48151) outlining the changed requirements relating to interest and inviting public comment. No comment was received, nor has any event changed the desirability of the change outlined therein. The proposed rule included changes applicable to the feed grain, upland cotton, and wheat programs. These changes will be included in a separate final rule.

Under the current regulations, all payments made to producers under the rice program which are not earned by the producer must be refunded to the Agricultural Stabilization and Conservation Service (ASCS). Interest is not charged on these overpayments where a producer actually earned a part of the same type of payment (i.e., deficiency and disaster, diversion) for any crop or where the payment was erroneously made to a producer through no fault of that particular producer. Interest is charged in all other cases from the date of payment to the date of refund. The rate of interest charged is 7 percent per year.

This final rule amends and supplements the current rules as follows:

1. The current rules do not distinguish between the producer who deliberately misrepresents a fact involving program requirements and the producer who does not. For example, when advance payments are made under the programs, a producer can receive an advance payment based on an honest intention to comply with the program requirements, change his or her mind, and have to refund the payment. This producer would currently be charged the same rate of interest as one who received advance payments under the programs but never had any intention of complying with program requirements. Under this final rule, producers who are determined to have misrepresented a fact involving program requirements or who are determined to have engaged in a scheme or device ot defeat the purpose of the program would be liable for payment of interest on the principal amount of the program payment at the rate of 18 percent per year from the date of the payment to the date of the refund.

2. The current rules do not provide adequate incentive for a producer to refund overpayments made under the programs. Under the regulations now in effect, a producer is not charged interest with respect to program overpayments when a producer earns part of the same type of payment for any crop. Thus, the producer, in effect, has an interest-free loan until the overpayment is refunded. Under this final rule, a producer who does not refund an overpayment within 30 days from the billing date (date of the issuance of the letter demanding refund of the program overpayment) will be charged interest from the billing date until such refund is made.

3. The interest rate charged for overpayments has been unrealistically low. This final rule provides for interest to be charged at the rate of interest charged by CCC with respect to price support loans. These changes are in general conformance with the overall policy for the Federal Government set by the Federal Claims Collection Standards (4 CFR Part 101).

Accordingly, the regulations appearing at 7 CFR Part 730 are amended as follows:

Final Rule

1. Section 730.24 is amended by revising paragraph (e) to read as follows:

§ 730.24 General payment provisions.

* * * * *

(e) *Unearned Payments and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are due and payable to CCC with 30 days from the date of billing.

(1) Effective with respect to determinations of overpayments made after enactment of this rule, refunds not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Parts 713 or 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 or 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section and determined to be due CCC after enactment of this rule shall accrue interest from the date of disbursement until the date paid. Interest charged shall be at a rate of 7 percent per annum from the date of disbursement until (date of publication of this rule). Interest accrued after (the date of publication of this rule) shall be at the CCC commodity loan interest rate in effect on the billing date.

2. Section 730.30 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 730.30 Misrepresentation and scheme or device.

* * * * *

(c) Refunds determined to be due CCC after enactment of this rule under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

(Secs. 101(h), 408(b), 1001, 91 Stat. 940, 91 Stat. 944, 94 Stat. 119 (7 U.S.C. 1441, 1428(b), 1421 note, 1309; Sec. 352, 52 Stat. 60, 91 Stat. 94D (7 U.S.C. 1352)))

Signed at Washington, D.C. November 6, 1980.

Ray Fitzgerald,

Administrator, ASCS.

[FR Doc. 80-36062 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 904

Grapefruit Grown in a Designated Area in California; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the California Grapefruit Administrative Committee which locally administers the Federal marketing order covering grapefruit grown in southeastern California.

DATES: Effective September 1, 1980, through August 31, 1981.

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

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." This final rule is issued under Marketing Order No. 904 (7 CFR Part 904; 45 FR 20046), regulating the handling of grapefruit grown in a designated area in California. This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the California Grapefruit Administrative Committee, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and 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). The order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period, which began September 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, a new § 904.200 is added to read as follows (this section is effective through August 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 904.200 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the California Grapefruit Administrative Committee during the period September 1, 1980, through August 31, 1981, will amount to $227,500.

(b) The rate of assessment for said period payable by each handler in accordance with § 904.35 is fixed at $0.065 per standard carton (32 pounds net weight) of grapefruit.

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

Dated: November 18, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-36449 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 279, Amdt. 1; Lemon Reg. 280]

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 November 23–29, 1980, and increases the quantity of such lemons that may be so shipped during the period November 16–22. 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 November 23, 1980, and the amendment is effective for the period November 16–22, 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 November 18, 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 910.580 is added as follows:

§ 910.580 Lemon Regulation 280.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 23, 1980, through November 29, 1980, is established at 200,000 cartons.

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

2. Paragraph (a) of § 910.579 Lemon Regulation 279 (45 FR 75164) is amended to read as follows:

§ 910.579 Lemon Regulation 279.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 16, 1980, through November 22, 1980, is established at 240,000 cartons.

* * * * *

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

Dated: November 19, 1980.

D.S. Kuryloski,

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

[FR Doc. 80–36676 Filed 11–20–80; 11:48 am]

BILLING CODE 3410–02–M

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7 CFR Part 959

Onions Grown in South Texas; Expenses and Rate of Assessment

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the South Texas Onion Committee. It will enable the committee to colllect assessments from first handlers on all assessable onions and to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal perid ending July 31, 1981.

FOR FURTHER INFORMATION CONTACT: C. W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis relating to this final rule is available upon request from Mr. Porter.

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

Pursuant to Marketing Order No. 959, as amended (7 CFR Part 959), regulating the handling of onions grown in South Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable onions handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

Section 959.220 (44 FR 63082, November 2, 1979; 65379, November 13, 1979) is hereby deleted and a new § 959.221 is added as follows:

§ 959.221 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1981, by the South Texas Onion Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $183,861.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be three cents ($0.03) per 50-pound container or equivalent quantity, of onions handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: November 18, 1980.

D. S. Kuryloski,

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

[FR Doc. 80–36448 Filed 11–20–80; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues revised Bulletin 385–4, Form 397b and c. This revision updates documents which are nine and seven years old, respectively, to reflect advances in technology thus permitting REA borrowers to provide the best, most cost-effective service possible.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standard Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3917.

The Final Impact Analysis Statement describing the options considered in developing this rule and the impact of implementing each option is available from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA hereby revises REA Forms 397b and c, Design Specifications for Trunk and Subscriber Carrier Systems. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified not significant.

REA, in an effort to aid REA borrowers in providing the best, most cost-effective telecommunications service to rural America is revising REA Forms 397b and c to reflect advances in technology.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851–Rural Telephone Loans and Loan Guarantees.

A Notice of proposed rulemaking was published in the **Federal Register**, Vol. 45, No. 160, (45 FR 54354) Friday, August 15, 1980. No public comments were received as a result of that notification.

Dated: November 14, 1980.

John H. Arnesen,

Assistant Administrator—Telephone

[FR Doc. 80-36450 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2851

United States Standards for Grades of Florida Grapefruit, Tangerines, Oranges, and Tangelos

Correction

In FR Doc. 80–33843, published at page 72089, on Friday, October 31, 1980, make the following corrections:

1. On page 72089, in the third column, the first pargraph under **"Background"**, the eighth line down "serveral changes" should be corrected to read "several changes".

2. On page 72090, in the second column, the fifth line down "8 1/16" should be correct to read "9/16".

3. Also on page 72090, the second column, the first paragraph, the last line "to 125" should be corrected to read "or 125".

4. On page 72092, the first column, sixth line down "(4) Growth crack; and," should be corrected to read "(4) Growth cracks; and,".

5. On pages 72093 and 72094 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

TABLE I - SHIPPING POINT[1/]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 33-count samples[3/] (Florida Grapefruit)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4/] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	0	0	0	1	[5/]1	1	2	2	2	[5/]2	2	2	3	3	3	[5/]3	3	4	4	4
	U.S. No. 3	1	0	1	[5/]1	1	2	[5/]2	2	3	3	[5/]3	3	4	4	4	[5/]4	5	5	5	[5/]5	5
Wormy fruit	All	1	0	0	0	1	[5/]1	1	2	2	2	[5/]2	2	2	3	3	3	[5/]3	3	4	4	4
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	4	3	5	7	8	10	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
Total defects including decay, wormy fruit, and very serious damage.	All	5	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Off-size		7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
	U.S. No. 1 Golden	16	13	23	34	44	54	63	73	83	92	102	112	122	131	140	150	159	169	178	188	197
			Acceptance numbers[4/] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	6	9	20	32	44	56	68	81	93	105	118	130	142	155	168	180	193	206	218	231	244
	U.S. No. 2 Russet	0	2	4	8	11	14	18	21	25	28	32	36	39	43	47	50	53	57	61	64	68

See footnotes at end of table.

FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2]	Number of 33-count samples[3] (Florida Grapefruit)																			
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	4	4	[5]/4	4	4	5	5	5	5	5	[5]/5	5	5	6	6	6	6	6	[5]/6	6
	U.S. No. 3	1	5	6	6	6	[5]/6	6	7	7	7	[5]/7	7	8	8	8	[5]/8	8	9	9	9	9
Wormy fruit	All	1	4	4	[5]/4	4	4	5	5	5	5	5	[5]/5	5	5	6	6	6	6	6	[5]/6	6
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	4	32	34	35	36	38	39	40	42	43	44	45	47	48	49	51	52	53	54	56	57
Total defects including decay, wormy fruit, and very serious damage.	All	5	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
Off-size		7	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	7	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
	U.S. No. 1 Golden	16	206	216	225	234	247	253	264	274	281	290	300	309	318	327	337	346	355	364	374	383
			Acceptance numbers[4] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	6	256	269	282	294	307	320	333	345	358	371	383	396	409	422	435	447	460	473	486	499
	U.S. No. 2 Russet	0	72	76	80	84	88	92	96	99	103	107	110	114	118	122	126	130	134	137	141	145

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.

[2] AL-Absolute limit permitted in individual 33-count sample.

[3] Sample size--33 count.

[4] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.

[5] Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADES	AL[1]	Number of 33-count samples[2] (Florida Grapefruit)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3] (maximum permitted)																			
Decay	All	3	2	3	4	5	6	7	8	9	10	11	12	13	[4]13	14	15	16	17	18	[4]18	19
Wormy fruit	All	1	0	0	0	1	[4]1	1	2	2	2	[4]2	2	2	3	3	3	[4]3	3	4	4	4
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	4	3	5	7	8	10	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
Total defects including very serious damage other than decay and wormy fruit.	All	5	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Off-size		7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
	U.S. No. 1 Golden	16	13	23	34	44	54	63	73	83	92	102	112	122	131	140	150	159	169	178	188	197
			Acceptance numbers[3] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	6	9	20	32	44	56	68	81	93	105	118	130	142	155	168	180	193	206	218	231	244
	U.S. No. 2 Russet	0	2	4	8	11	14	18	21	25	28	32	36	39	43	47	50	53	57	61	64	68

[1] AL--Absolute limit permitted in individual 33-count sample.
[2] Sample size--33 count.
[3] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[4] Preferred number of samples for this acceptance number.

BILLING CODE 1505-01-C

6. On page 72094, the third column, the second line of paragraph §#2851.765 "flaby" should be corrected to read "flabby".

7. On page 72096, the second column, paragraph (d)(3) of § 2851.1141 "Dryness on mushy condition;" should be corrected to read "Dryness or mushy condition;".

8. On pages 72098 and 72099 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

TABLE I - SHIPPING POINT[1/]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 50-count samples[3/] (Florida Oranges, Tangelos)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4/] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
	U.S. No. 3	2	0	1	2	[5/]2	2	[5/]3	3	4	4	[5/]4	5	5	[5/]5	6	6	[5/]6	6	7	7	[5/]7
Wormy fruit	All	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including decay, wormy fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	U.S. No. 1 Golden	22	18	34	49	64	80	93	109	122	138	151	166	180	194	208	222	237	251	265	279	293
			Acceptance numbers[4/] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

See footnotes at end of table.

FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2]	Number of 50-count samples[3] (Florida Oranges, Tangelos)																			
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	[5]5	6	6	6	6	[5]6	6	7	7	7	7	[5]7	7	8	8	8	[5]8	8	9	9
	U.S. No. 3	2	8	8	[5]8	8	9	9	[5]9	9	10	10	[5]10	11	11	[5]11	11	12	12	[5]12	12	13
Wormy fruit	All	1	[5]5	6	6	6	6	[5]6	6	7	7	7	7	[5]7	7	8	8	8	[5]8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Off-size		10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
	U.S. No. 1 Golden	22	307	321	335	349	363	377	391	405	419	433	447	461	475	489	503	517	531	545	559	573
			Acceptance numbers[4] (minimum required)																			
	U.S. No. 1 Bronze																					
	U.S. No. 1 Russet	11	394	413	433	452	471	491	510	530	549	569	588	608	627	647	666	686	705	725	744	764
	U.S. No. 2 Russet	1	114	119	125	131	137	143	149	155	161	166	172	178	184	190	196	202	208	214	220	226

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
[2] AL--Absolute limit permitted in individual 50-count sample.
[3] Sample size--50 count.
[4] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[5] Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADES	AL[1/]	Number of 50-count samples[2/] (Florida Oranges, Tangelos)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3/] (maximum permitted)																			
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27
Wormy fruit	All	1	0	1	[4/]1	1	2	[4/]2	2	3	3	3	[4/]3	3	4	4	[4/]4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	U.S. No. 1 Golden	22	18	34	49	64	80	93	109	122	138	151	166	180	194	208	222	237	251	265	279	293
			Acceptance numbers[3/] (minimum required)																			
	U.S. No. 1 Bronze	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 1 Russet U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

[1/] AL--Absolute limit permitted in individual 50-count sample.
[2/] Sample size--50 count.
[3/] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[4/] Preferred total number of samples for this acceptance number.

BILLING CODE 1505-01-C

9. On page 72100, the third column, the second line of § 2851.1170 "decidely" should be corrected to read "decidedly".

10. On page 72101 the following table is reprinted as follows:

BILLING CODE 1505-01-M

§ 2851.1174 Classification of defects.

TABLE V

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation		Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Buckskin		Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose		Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing		Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition		Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 3/4 inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Green spots	More than slightly affecting appearance.	More than 10 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	More than 25 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	
Hail	Not well healed, or aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Not well healed, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Not well healed, or aggregating more than a circle 1/2 inch (12.7 mm) in diameter.	Not well healed, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.
Oil Spots	More than slightly affecting appearance.	More than 5 spots, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	More than 10 spots, or aggregating more than a circle 1 inch (25.4 mm) in diameter.	
Scab		Materially detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Scars	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 7/8 inch (22.2 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1¼ inches (31.8 mm) in diameter.	Deep or rough aggregating more than a circle ½ inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle 1¼ inches (31.8 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10% of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown		Aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn		Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Hard and aggregating more than a circle 1½ inches (38.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sunburn		Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Split, Rough, Protruding Navels.	Split is unhealed, or more than 1/8 inch (3.2mm) in length, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed, or more than ¼ inch (6.4 mm) in length, or more than three well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed, or more than ½ inch (12.7 mm) in length, or two or more splits aggregate more than 1 inch (25.4 mm) in length, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed or fruit is seriously weakened.
Thorn scratches	Not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, or hard concentrated thorn injury aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Not well healed, or hard concentrated thorn injury aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.

Note: References to area or aggregate area, or length are based on a 100 size orange or tangelo.

BILLING CODE 1505-01-C

11. On pages 72103 and 72104 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

TABLE I - SHIPPING POINT[1/]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 50-count samples[3/] (Florida Tangerines)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4/] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
	U.S. No. 3	2	0	1	2	[5/]2	2	[5/]3	3	4	4	[5/]4	5	5	[5/]5	6	6	[5/]6	6	7	7	[5/]7
Wormy fruit	All	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including decay, wormy fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	Serious damage by unsightly discoloration	2	1	2	2	[5/]3	4	[5/]4	5	[5/]5	6	[5/]6	7	[5/]7	8	[5/]8	8	[5/]9	9	10	[5/]10	11
			Acceptance numbers[4/] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

See footnotes at end of table.

FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2]	Number of 50-count samples[3] (Florida Tangerines)																			
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	[5]5	6	6	6	6	[5]6	6	7	7	7	7	[5]7	7	8	8	8	[5]8	8	9	9
	U.S. No. 3	2	8	8	[5]8	8	9	9	[5]9	9	10	10	[5]10	11	11	[5]11	11	12	12	[5]12	12	13
Wormy fruit	All	1	[5]5	6	6	6	6	[5]6	6	7	7	7	7	[5]7	7	8	8	8	[5]8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Off-size		10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
	Serious damage by unsightly discoloration	2	[5]11	12	[5]12	12	13	[5]13	14	[5]14	15	15	[5]15	16	[5]16	17	17	[5]17	18	[5]18	19	19
			Acceptance numbers[4] (minimum required)																			
	U.S. No. 1 Bronze	11	394	413	433	452	471	491	510	530	549	569	588	608	627	647	666	686	705	725	744	764
	U.S. No. 1 Russet U.S. No. 2 Russet	1	114	119	125	131	137	143	149	155	161	166	172	178	184	190	196	202	208	214	220	226

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.

[2] AL--Absolute limit permitted in individual 50-count sample.

[3] Sample size-50 count.

[4] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.

[5] Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADES	AL[1]	Number of 50-count samples[2] (Florida Tangerines)																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3] (maximum permitted)																			
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27
Wormy fruit	All	1	0	1	[4]/1	1	2	[4]/2	2	3	3	3	[4]/3	3	4	4	[4]/4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	Serious damage by unsightly discoloration	2	1	2	2	3	4	[4]/4	5	[4]/5	6	[4]/6	7	[4]/7	8	[4]/8	8	[4]/9	9	10	[4]/10	11
			Acceptance numbers[3] (minimum required)																			
	U.S. No. 1 Bronze	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 1 Russet U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

[1] AL--Absolute limit permitted in individual 50-count sample.
[2] Sample size--50 count.
[3] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[4] Preferred total number of samples for this acceptance number.

BILLING CODE 1505-01-C

12. On page 72106, the fifth line of § 2851.1831 "the aggretate" should be corrected to read "the aggregate".

13. Also on page 72106 the following table is reprinted as follows:

BILLING CODE 1505-01-M

TABLE V

Factor	Damage	Serious damage	Very serious damage
Ammoniation	Not occurring as light speck type, or detracts more than discoloration permitted in the grade.	Scars are cracked or dark and aggregating more than 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Buckskin	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing	Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition	Affecting all segments more than 1/8 inch (3.2 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots	More than 10 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	More than 25 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	

Factor	Damage	Serious damage	Very serious damage
Hail	Not well healed, or aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Not well healed, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Not well healed, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.
Oil spots	More than 5 spots, or aggregating more than a circle 1/2 inch (12.7 mm) in diameter.	More than 10 spots, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	
Scab	Materially detracts from the shape or texture, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.

Factor	Damage	Serious damage	Very serious damage
Scars	Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 3/4 inch (19.1 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1-1/8 inches (28.6 mm) in diameter.	Deep or rough aggregating more than a circle ½ inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle 1-1/8 inches (28.6 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10% of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown	Aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn	Skin is hard and aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Skin is hard and aggregating more than a circle 1-1/4 inches (31.8 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sunburn	Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.
Unsightly discoloration	Color and pattern causes an unattractive appearance.	Color and pattern causes a distinctly unattractive appearance.	Very objectionable appearance caused by any means.

Note: References to area or aggregate area, or length are based on a 176 size tangerine.

BILLING CODE 1505-01-C

7 CFR Part 2853

Increase in Fees for Federal Meat Grading and Certification Services

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The rates for voluntary Federal meat grading and certification services are changed to reflect increased costs associated with these programs.

EFFECTIVE DATE: December 28, 1980.

FOR FURTHER INFORMATION CONTACT: David K. Hallett, Chief, Meat Grading and Certification Branch, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, First Floor Mezzanine, Annex Building, Washington, DC 20250, (202) 447–2210.

SUPPLEMENTARY INFORMATION:

Exemption from Executive Order 12044

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been determined to be exempt from those requirements. Dr. Donald L. Houston made this determination because the Executive Order does not apply to matters relating to Agency management.

Background

The Agricultural Marketing Act of 1946 provides for the collection of fees approximately equal to the cost of providing Federal meat grading and certification services. Salaries paid to Federal employees have been increased under the provisions of Executive Order 12248. Therefore, it has been determined that in order to cover the increased costs of providing Federal meat grading and certification services, including salaries paid to Federal employees and other associated costs of administering the program, the hourly fee must be increased as provided herein.

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624) the provisions of 7 CFR 2853.27(a) prescribing fees for Federal meat grading and certification services are hereby amended by changing the phrases "$18.20 per hour," "$22.20 per hour," and "$36.40 per hour" to "$20.20 per hour," "$25.20 per hour," and "$40.40 per hour" respectively.

(Sec. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Therefore, pursuant to the authority in 5 U.S.C. 553 it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective December 28, 1980.

Done at Washington, D.C., on November 17, 1980.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36324 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Multnomah County in Oregon, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: November 17, 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: This amendment excludes a portion of Multnomah County in Oregon, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. 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 not apply to the excluded area.

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

In § 82.3(a)(17), relating to the State of Oregon, paragraph (iii) relating to the premises of Safari Pets and Supplies, Inc., 1420 Lloyd Center, Portland, Multnomah County is deleted.

* * * * *

(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)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. 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 E. C. Sharman, 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 17th day of November 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36323 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Quality Service

9 CFR Part 320

Change in Reporting Frequency From Weekly to Quarterly of Processing Operations at Official Establishments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations to require the operator of each official establishment to report quarterly the number of pounds of meat and meat

food products produced. Currently, such information is submitted to the Food Safety and Quality Service (FSQS) each week. In its proposal, the Department had suggested an annual reporting period. Following a review of the comments submitted in response to the proposal, the Department has determined, however, that quarterly reporting of MP Form 404 data provides a more accurate reporting system and reflects seasonality in the data.

EFFECTIVE DATE: This action becomes effective January 1, 1981. The last weekly report will be submitted on Tuesday, December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McCutcheon, Director, Policy and Program Planning, Food Safety and Quality Service, U.S. Department of Agriculture, Room 327–E, Agriculture Administration Building, Washington, D.C. 20250, (202) 447–6525. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under the USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044 and has been classified "significant."

Background

The requirement that statistics on the production volume of processed meat and meat food products be compiled and regularly submitted to the U.S. Department of Agriculture dates back to the inception of the Federal Meat Inspection Act of 1907. Since then, FSQS and its predecessor agencies have received weekly reports from each official establishment indicating the amount, by category, of meat and meat food products produced.

The number of categories of products required to be reported on has increased over the years as the variety of products produced has increased. The number of products reported varied between 24 and 28 during 1917–1932 and 1935–1946. Sliced bacon production was incorporated into the processing report in 1937 and canning operations were specifically segregated and categorized in 1948.

Since that time the report has been continually expanded. It currently includes 110 product categories organized into nine major groups: Cured Products, Smoked or Dried or Cooked Products, Sausage, Sliced/Packaged Products, Fresh or Frozen Products, Convenience Foods, Fats and Oils, Miscellaneous Meat Products, and Canned Products.

The MP Form 404 serves some purposes in assisting the Food Safety and Quality Service to perform its regulatory function. The Meat and Poultry Inspection Program (MPI) management and field services occasionally use MP Form 404 data to supplement other information for inspection tasks and manpower planning. The Processed Products Inspection Division of MPI uses information from MP Form 404 as a tool to monitor processed products production. Processing production data are also used by the Food Ingredient Assessment Division in FSQS' Science Program and the Meat and Poultry Standards and Labeling Division in the Compliance Program. The data collected are used by FSQS for the President's Budget and Explanatory Notes and the Secretary's Report to Congress on the Meat and Poultry Inspection Program.

The data are also used by a number of other Federal agencies, the industry, and educational or research organizations. For a more detailed explanation of the uses of MP Form 404 data, see the Final Impact Statement.

Paperwork and Cost Reduction. The administration of MPI including the maintenance of the MP Form 404 requirement, was transferred to the Food Safety and Quality Service in March 1977. In an effort to carry out previous commitments made by its predecessor agencies, FSQS scheduled a reduction in the reporting frequency of MP Form 404 on January 1, 1978, from weekly to monthly. Uncertainty over the fate of the weekly sliced bacon report and associated impacts on pork belly futures, however, led to a postponement of the action and further review.

The interest of the Federal Government in reducing the paperwork burden on industry has been most apparent in the last 4–5 years. In March 1976, the Office of Management and Budget (OMB) directed all executive departments and agencies to institute a two-phase plan to reduce the Federal paperwork burden on the public. The first phase called for a 10 percent reduction in the number of Federal forms and reports by June 30, 1976. The second phase called for a 5 and a 15–20 percent reduction in the number of hours spent by the public in official recordkeeping by September 1977 and 1978, respectively. Discussions of the MP Form 404 surfaced in the latter phase.

At the time the Federal paperwork reduction campaign came into being, MPI was organizationally a part of the Animal and Plant Health Inspection Service. The MP Form 404 was one of the few recurring reports maintained by that Agency. At the time, the annual number of respondents to MP Form 404 was estimated at 5,800. Using 30 minutes as a preliminary estimate of the average time required to complete the form, the Department estimated its associated paperwork burden on the public to be 150,800 hours per year.[1]

Industry Viewpoints. Following the expansion of MP Form 404 in 1977 to encompass 110 product categories, the Department received strong criticism from the Pacific Coast Meat Association, Incorporated, which represents small meatpackers. This trade group maintained that it had been excluded from discussions concerning revisions of the form, and it questioned the continued use of the form by the Department as previously conceived. The group also stated that the addition of new product categories appeared to assist major meatpacking companies developing data for production and marketing needs. More generally, the requirement was characterized as an unnecessary intrusion in the marketplace which could jeopardize the confidential nature of some production data.

The Department also received correspondence from trade associations representing the large meatpackers—the National Independent Meat Packers Association and the American Meat Institute—which are in support of retaining MP Form 404 on a weekly basis. Similarly, the Commodity Futures Trading Commission (CFTC) has indicated its strong concern at the prospect of reducing this report to less than a weekly basis. It believes that the commodity trader, who uses the figures to assess the flow of meat through the marketplace, will be disadvantaged by any change in reporting frequency.

The issue of confidentiality and the release of slaughter and processing data has been under review within the Department for over a year. In 1978, a determination was made by the Department that data concerning slaughtering operations more than 1 year old, and data concerning processing operations more than 2 years old, did not appear to meet exemption requirements of the Freedom of Information Act (FOIA), which protect trade secrets and certain confidential, commercial information [5 U.S.C.

[1] Additional investigation found that it took approximately 15 minutes for plant personnel to complete MP Form 404 rather than the 30 minutes as preliminarily estimated.

552(b)(4)). Thereafter numerous representatives of meat processors, poultry processors, and trade associations objected to this requirement, contending such data were just as sensitive and confidential as more current data, and release of the data would injure competition. On December 15, 1978, the Department responded to the representatives' complaint by publishing a notice in the Federal Register (43 FR 58595) which stated that the Department's position was under review and requested interested persons to submit comments. That status remains unchanged.

Change to Quarterly Reporting on MP Form 404 Data

In its proposal, the Department recognized that significant cost savings could be realized if the reporting period for MP Form 404 were changed from a weekly basis. The Department considered four other alternatives. It appeared that annual reporting would produce the greatest cost savings, while meeting the Department's regulatory needs. After reviewing the comments on the proposal, the Department has determined to require the collection of data on MP Form 404 on a quarterly basis. Quarterly reporting will lead to cost savings to the Agency of approximately $160,000 per year, and to industry of approximately $385,000 per year. These cost savings are still significant and will permit the Department to obtain accurate statistics which provide an indication of seasonality.

Comments

The Department received 27 comments on the proposal which was published in the March 25, 1980, Federal Register (45 FR 19258–19263). Comments received represent the views of 16 individual inspected meat or poultry processors, 6 related trade associations, 2 government entities, a commodity exchange, an economic and management consultant to meat processors, and a consumer.

Twelve comments (8 from industry, 2 from related trade associations, 1 from government, and 1 from a consumer) favored the proposal, citing several reasons. Most pointed out that data from MP Form 404 is not necessary on a weekly basis. Furthermore, money and manpower saved by both industry and government will offset any advantages that may be obtained from a weekly report. The consumer comment stated that lower administrative costs to both industry and government may lower meat prices, which would be a welcomed result in these inflationary times. Finally, the Council of Economic Advisors supports the Department's view that regulatory agencies should only gather data directly related to their mission.

Fifteen commenters (8 from industry, 4 from related trade associations, 1 from government, 1 from a consultant to meat processors, and 1 from a commodity exchange) opposed the proposal, citing several reasons.[2] Most argued that information contained in the weekly, monthly, quarterly and annual reports that are published utilizing MP Form 404 data is important to industry in compiling short term demand-supply functions for the meat industry. These indicators are used by individual firms to gauge their operation with industry trends and to plan future production goals. The comments state that often data used to fill out MP Form 404 are collected by industry as part of in-house management systems. Therefore, very little burden is imposed upon industry in collecting this information. These comments also point out that yearly reporting of MP Form 404 data will cause the development of alternative, duplicative industry systems, at great expense, in order to provide management data necessary for the proper conduct of business. It is stated that these costs or the costs related to an added safety margin to guard against unduly wide price savings within the market will offset any potential consumer savings resulting from reducing the frequency of reporting on MP Form 404. Finally, a trade association comments that the Department failed to place a value on the guidance that plant management receives from the weekly MP Form 404 reports.

The Department recognizes that industry uses these statistics for inventory control, production scheduling and market planning. The Department also recognizes the uses of the report by the Commodity Futures Trading Commission and the Department of Labor in interpreting consumer price trends and realizes its responsibility to provide information on the industry it regulates. However, the principal role of a regulatory agency such as FSQS is to protect the public health and to provide needed information on its regulated industry at the lowest level required for decisionmaking, it should not use its regulatory authority to gather data on its regulated industry unless the utility of the data can be directly linked to its regulatory mission. As long as a regulatory need for data exists, having the data available for other uses is reasonable, so long as these uses do not interfere with the regulatory mission or cause harm to the firms that supply the information. The Department has determined that it does not need the information obtained from MP Form 404 on a weekly basis. As stated previously, quarterly reports will serve its needs.

Industry and trade association comments indicate concern that information on an annual MP Form 404 report will have less value to government officials because annual reporting may reduce accuracy and will fail to show weekly, monthly and seasonal variations. Furthermore, these comments state that the weekly reporting of production volume or processed meat products is directly linked to agency and departmental needs. Annual reporting, it is claimed, will leave unfilled agency needs that will have to be met by a new, undefined and untried system. Such a system will likely impose added, rather than fewer industry burdens and costs.

The Department has concluded that obtaining accurate data is necessary and the reflection of seasonality in the data is important. In particular, a reflection of seasonality provides the Department with data on which to base its assignment of inspectors where seasonal changes in production may affect inspection needs. Therefore, the Department has provided for the quarterly reporting of the MP Form 404 data in its final regulation.

The Virginia Department of Agriculture and Consumer Services expresses a concern that the collection of MP Form 404 data only once a year will affect the data gathering capabilities of State and Federal regulatory agencies. This comment further regrets the potential loss of an evaluation tool for inspection service administrators to estimate workloads and to develop employee assignment schedules.

The Department is aware that State inspection service administrators may use information from MP Form 404 reports to estimate workload and develop employee assignment schedules. As stated above, MPI management also uses this data to supplement other information for inspection and manpower planning where questions of seasonality exist. The reflection of seasonality in the reports, as provided by the final

[2] Approximately 2 weeks after the close of the comment period, a comment was received from an industry member who had previously commented in favor of reduced reporting of MP Form 404. This comment stated opposition to the Department's action on reduced reporting frequency of MP 404, indicating that the previous comment had been sent in error, through a misunderstanding of the full ramifications of the Department's action. This change has been reflected in the above analysis.

regulation, should ensure that the effectiveness of both MPI and State program manpower management will not be reduced.

The Chicago Mercantile Exchange points out that the **Federal Register** notice stated that "Uncertainty over the fate of the weekly sliced bacon report and associated impacts on pork belly futures
* * * led to a postponement of (a previous) action (to reduce the reporting frequency of MP Form 404 to monthly) * * *" Yet, commented the Exchange, nothing in the impact statement addresses the impact on the Commodity Futures Trading Commission of reduced reporting on pork belly futures.

The Department recognizes the use of MP Form 404 data by the CFTC to develop price guiding supply indices to monitor pork belly futures and to monitor daily market surveillance activities. This is addressed in the Final Impact Statement by a recognition that although CFTC officials would prefer weekly statistics, CFTC indices could be made based on monthly or quarterly data.

The Pacific Coast Meat Association mentions the need for confidentiality of MP Form 404 data on an individual company basis through FOIA requests. This commenter further requested that the Agency reduce industry burden and paperwork by reducing the number of products reported in MP Form 404 to pre-1976 levels.

As indicated previously, the Department is presently reviewing the issue of the protection of MP Form 404 data from FOIA requests and intends to address that issue separately at a later date.

Furthermore, as stated in the impact statement, although the number of products reported in the MP Form 404 has increased over the years, this has been done to reflect changing production patterns in the types of products processed. In 1978, the weekly average number of different product categories reported per establishment was seven out of 110 categories; the Department does not consider this to be an unreasonable burden.

Industry and trade associations suggest that thought should be given to reducing the collection of MP Form 404 data to a monthly basis, at least for a trial period. After that trial period, if further reduction in reporting frequency appears appropriate, then quarterly collection, then biannually, and finally collection annually of data should be considered. For the reasons previously discussed, the Department has considered this approach to be inappropriate. Comments also express a willingness to work with FSQS to simplify MP Form 404 and to investigate other ways to reduce industry burden and paperwork.

Impact of Proposal. The greatest impact will be on the 6,300 official establishments which now submit a weekly report of production figures. The total annual reporting burden for these establishments is estimated to be 70,000 persons/hours based on time estimates of 15 minutes per form. It is also likely that there would be a secondary impact on nongovernmental users of the statistical data. The full effect of the proposed regulation on these parties, however, cannot now be assessed by the Department.

In formulating the proposal, the Department considered three other options in addition to the proposed annual requirement and the adopted quarterly requirement. These were:

1. Retention of the weekly report;
2. Monthly reporting; and
3. Elimination of the requirement entirely.[3]

The Department has concluded that the option selected should be the one that provides the necessary regulatory information in the least burdensome manner, with the greatest cost savings possible.

In view of the concerns expressed by some segments of the regulated industry, balanced against the need to reduce the paperwork burden on the meat industry and the Federal Government, which will result in cost savings to both, the Department has changed its original proposal to collect MP Form 404 data annually and now has decided that a quarterly collection of this data is more appropriate.

Need for Amendment to the Code of Federal Regulations. The authority to require reports is contained in section 407 of the Federal Meat Inspection Act (21 U.S.C. 677), which incorporates by reference provisions of the Federal Trade Commission Act (15 U.S.C. 46, 48, 49 and 50). Under this authority, the failure to file a required report could result in a penalty of $100 a day each day the report is overdue (21 U.S.C. 677). General rulemaking authority is contained in section 21 of the Act (21 U.S.C. 621). Currently, the regulations do not specifically require reporting of production figures. In order to assure proper enforcement, § 320.6 of the Federal meat inspection regulations (9 CFR 320.6) is amended to require that production reports be filed on a quarterly basis.

[3] These options are discussed and analyzed in greater detail in the Agency's approved Final Impact Statement.

Therefore, § 320.6 of the Federal meat inspection regulations (9 CFR 320.6) is amended by redesignating the present paragraph (b) as paragraph (c), and adding a new paragraph (b) as follows:

§ 320.6 Information and reports required from official establishment operators.

* * * * *

(b) The operator of each official establishment shall report quarterly the number of pounds of meat and meat food product produced at that establishment. The report shall be made on a form furnished by the Administrator and shall be submitted to an inspector at the establishment. Each report shall cover a calendar quarter and shall be filed within 15 days after the end of each quarter.

(c) * * *

(Secs. 21 and 407, 34 Stat. 1260, as amended, (21 U.S.C. 621, 677; 42 FR 35625, 35626, 35631))

The reporting and recordkeeping requirements prescribed herein have been approved by OMB.

Done at Washington, D.C., on November 19, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36524 Filed 11-20-80; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11, 50, 70

Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: In March 1977, the Commission published for public comment proposed amendments to establish criteria and procedures for determining eligibility for access to or control over special nuclear material. As a result of public and staff comments, the record of an informal Hearing, and the recommendations of the Hearing Board, the scope of the proposed amendments has been narrowed to include only those fuel cycle facilities and transportation activities that use, process, or store formula quantities of special nuclear material. Light water reactors, non-power reactors, and facilities possessing only irradiated special nuclear material subject to the exemption of § 73.6(b) are not covered by these revised amendments. The Nuclear Regulatory commission is now

publishing these revised amendments in final form.

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Frank Gillespie or Jim Prell, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Phone: 301–443–5907.

SUPPLEMENTARY INFORMATION: Section 161i of the Atomic Energy Act of 1954, as amended, permits the Nuclear Regulatory Commission to prescribe regulations instituting a clearance program for those individuals who have access to or control over special nuclear material. Specifically, the section provides that the Commission may issue regulations "* * * designating activities involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations and loyalty shall have been investigated under standards and specifications established by the commission and as to whom the commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security * * *."

Pursuant to this statutory authority and after consideration of the results of public comments, the record developed in an informal hearing, and the recommendations of the hearing board, the Commission is issuing regulations which would require certain individuals involved in the operation of licensed fuel reprocessing plants, in the licensed use, processing, or storage of certain quantities of special nuclear materials, and in the transportation by the private sector of certain quantities of special nuclear material, to receive authorization from the Commission for access to or control over special nuclear material. Nuclear power reactors licensed pursuant to 10 CFR Part 50[1] are not covered by these amendments. They will be the subject of a separate rulemaking to include a notice and comment period. Additionally, non-power reactors and storage of fuel incident thereto, have been excluded from the requirements of these amendments pending completion of a separate ongoing review of total safeguards requirements adequacy at such facilities. When that assessment is complete, considerations of access authorization requirements will be included in the evaluation of overall safeguards upgrading which may be considered necessary for these facilities.

[1] Except for the Fort St. Vrain facility.

Finally, facilities possessing formula quantities of special nuclear material only in the form of irradiated special nuclear material subject to the exemption of § 73.6(b) are also excluded from these requirments as the Commission concludes that the risk of theft or diversion of such material is minimal. This is consistent with other safeguards requirements for irradiated special nuclear material.

These regulations utilize a personnel security program as a measure to protect against those employed in the affected nuclear acitivities who might conspire to steal or divert special nuclear material or conduct sabotage which would endanger the public by exposure to radiation. Of course, a clearance program itself does not entirely solve the problem of the "insider," but, in the opinion of the commission, experience has shown that such programs do substantially reduce the risk. Moreover, the proposed program is one of several elements in the commission's overall safeguards program which together protect against threats, both internal and external.

Two levels of special nuclear material access authorization are established. The higher level, NRC–U, is based upon a full-field background investigation and will apply to (i) all individuals who require unescorted access to special nuclear material or within vital areas, (ii) those jobs in which an individual alone or in conspiracy with another individual who does not possess an NRC–U special nuclear material access authorization could act to steal or divert special nuclear material or to commit sabotage, and (iii) drivers of motor vehicles and pilots of aircraft transporting certain quantities of special nuclear material and those who escort road, rail, air or sea shipments of special nuclear material. The lower level, NRC–R, is based upon a National Agency Check and will apply to all individuals who require unescorted access to protected areas and who are not required to possess an NRC–U special nuclear material access authorization. An implementation schedule has been established to account for changed estimates of the time required to process access authorization applications (190 days for an NRC "U" and 130 days for an NRC "R") and for the initial flow of applications. Jobs at fixed sites requiring access authorization will be identified by licensee submittal of an amendment to the security plan. For jobs not requiring an amended security plan, affected individuals must have the required access authorization within 365 days of the effective date of the amendments. All others must have authorization 365 days after having the amended security plan approved designating those jobs which require access authorization. Excepted from the 365-day implementation in all cases are those who initially apply but have not received notification due to Commission processing time.

Both the National Agency Check and the full-field background investigation are conducted by the Office of Personnel Management. The National Agency check consists of a check of files of the FBI (fingerprint and central files), Office of Personnel Management (Security-Investigative index), and a check of military records and records of other government agencies, as appropriate. The full-field background investigation consists of interviews of references, conducted by investigative agents of the Office of Personnel Management, in addition to the records check. Sources of information developed in the course of the investigation are also interviewed. The full-field background investigation conducted by the Office of Personnel Management generally covers the 5-year period of the individual's adult life prior to the investigation.

Licensees and license applicants will be required to amend their security plans by identifying and describing jobs at their facilities which require authorization. Affected individuals will be required to obtain authorization according to the schedules set forth in the proposed rule. Individuals who are newly hired or who change jobs where the new job will require a material access authorization must obtain an authorization before beginning the job. Authorization will be renewed every 5 years.

The establishment of a material access authorization program in the licensed nuclear industry will affect individuals who are not employed by any licensee or contractor of the Commission as well as licensee employees. It is the Commission's intent to minimize both the impact on the rights of privacy and association of individuals affected, and the number of individuals affected, while providing an effective measure of protection against those who would seek employment with, or use their position in, the nuclear industry for purposes of theft or sabotage. In preparing these regulations, among the matters considered were the scope of investigations (e.g., whether a full-field background investigation should be required for all individuals), which job functions should require

material access authorization (e.g., require authorization only for "key" positions or adopt a graded system with level of clearance determined by job), whether psychological assessment should be required, and the relation of the proposed program to current NRC and DOE personnel security programs.

The Commission also considered the question of whether new criteria should be developed against which a decision for authorization would be made. The present NRC security clearance criteria (10 CFR Part 10) were developed for access to classified information and, as such, not all criteria may be equally significant for questions of access to special nuclear material, and some may not be perceived as relevant in specific cases. Also, there may be cases in which additional criteria, not now included in 10 CFR Part 10, would be more to the point. However, these criteria do correspond to the Federal Government's general approach to personnel security, and specifically, they are presently used for DOE access authorization programs. Furthermore, the criteria are in the nature of guidelines to be used in a decision process characterized by common sense judgments, rather than quantitative criteria. Moreover, the Commission is reluctant to devise a new set of criteria without evidence that such new criteria would significantly improve upon those which presently exist. The Commission notes, however, that the Department of Energy is currently reviewing the criteria applicable to access to Restricted Data and Material and the Commission will review its own criteria in 10 CFR Part 10 in light of any revision made by the Department of Energy in 10 CFR Part 710. Hence, in light of the above, the Commission is relying on the considerable expertise residing in the broad experience of the Federal Government in the area of personnel security programs by proposing the use of the criteria contained in 10 CFR Part 10 as guidelines in deciding questions of access to or control over special nuclear material.

Pursuant to the Atomic Energy Act of 1954, as amended, by the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that a new 10 CFR Chapter I, Part 11, and the following conforming amendments to 10 CFR Chapter I, Parts 50 and 70 are published as a document subject to codification.

1. A new Part 11 is added to read as follows:

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

General Provisions

Sec.
11.1 Purpose.
11.3 Scope.
11.5 Policy.
11.7 Definitions.
11.9 Specific exemptions.

Requirements for Special Nuclear Material Access Authorization

11.11 Requirements at fixed sites.
11.13 Requirements in transportation.
11.15 Application for special nuclear material access authorization.

Criteria for Determining Eligibility for Access to, or Control Over, Special Nuclear Material

11.21 Application of the criteria.

Authority: Sec. 7, Pub. L. 93-377, 88 Stat. 475; sec. 161i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201).

General Provisions

§ 11.1 Purpose.

This part establishes the requirements for special nuclear material access authorization, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization for conduct of certain activities, licensed or otherwise, which involve access to or control over special nuclear material.

§ 11.3 Scope.

(a) The requirements, criteria, and procedures of this part apply to the establishment of and eligibility for special nuclear material access authorization for employees, contractors, consultants of, and applicants for employment with, licensees or contractors of the Nuclear Regulatory Commission where such employment, contract, service, or consultation involves any job falling within the criteria of § 11.11 or § 11.13.

(b) The requirements, criteria, and procedures of this part are in addition to and not in lieu of any requirements, criteria, or procedures for access to or control over classified special nuclear material.

§ 11.5 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its authority to establish and administer, in a manner consistent with traditional American concepts of justice, a personnel security program in the interests of the common defense and security for the purpose of safeguarding special nuclear material and preventing sabotage which would endanger the public by exposure to radiation. To this end, the Commission has established criteria for determining eligibility for special nuclear material access authorization and will afford affected individuals the opportunity for administrative review of questions concerning their eligibility for special nuclear material access authorization.

§ 11.7 Definitions.

As used in this part:

(a) Terms defined in Parts 10, 25, 50, 70, 73, and 95 of this chapter have the same meaning when used in this part.

(b) "Special nuclear material access authorization" means an administrative determination that an individual (including a contractor or consultant) who is employed by or is an applicant for employment with an affected Commission contractor, licensee of the Commission, or contractor of a licensee of the Commission may work at a job which affords access to or control over special nuclear material and that permitting the individual to work at that job would not be inimical to the common defense and security.

(c) "NRC–'U' special nuclear material access authorization" means an administrative determination based upon a national agency check and a full-field background investigation conducted by the Office of Personnel Management that an individual in the course of employment is eligible to work at a job falling within the criteria of § 11.11(a)(1) or § 11.13.

(d) "NRC–'R' special nuclear material access authorization" means an administrative determination based upon a national agency check that an individual in the course of employment is eligible to work at a job falling within the criterion of § 11.11(a)(2).

§ 11.9 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of this Part. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. Documentation related to the request, notification and processing of an exemption shall be maintained for two years beyond the period covered by the exemption.

Requirements for Special Nuclear Material Access Authorization

§ 11.11 Requirements at fixed sites.

(a) Each licensee who after February 19, 1981, uses, processes, or stores formula quantities of special nuclear material (as defined in Part 73 of this chapter) subject to the physical protection requirements of §§ 73.20, 73.45, and 73.46 of Part 73 of this chapter shall identify at his facility or plant (excluding however all non-power reactor facilities and storage of fuel incident thereto and facilities and plants in which the licensee possesses or uses only irradiated special nuclear material subject to the exemption of § 73.6(b) of Part 73 of this chapter and describe to the Commission, by amendment to his security plan:

(1) All jobs in which an individual could steal or divert special nuclear material, or commit sabotage which would endanger the public by exposure to radiation, by working alone or in cooperation with an individual who does not possess an NRC–U special nuclear material access authorization, or by directing or coercing any individual to assist in the theft, diversion, or sabotage. Such jobs include but are not limited to:

(i) All positions in the licensee's security force,

(ii) Management positions with the authority to:

(A) Direct the actions of members of the security force or alter security procedures, or

(B) Direct routine movements of special nuclear material, or

(C) Direct the routine status of vital equipment.

(iii) All jobs which require unescorted access within onsite alarm stations.

(iv) All jobs which require unescorted access [2]to special nuclear material or within vital areas.

(2) All jobs which require unescorted access within protected areas and which do not fall within the criterion of paragraph (a)(1) of this section.

(b) After (365 days following Commission approval of the amended security plan submitted in accordance with paragraph (a) of this section) no individual may be permitted to work at any job determined by the Commission to fall within the criterion of paragraph (a)(1) of this section without an NRC–U special nuclear material access authorization, and no individual may be permitted unescorted access to any protected area at any site subject to this part without either an NRC–U or NRC–R special nuclear material access authorization. An exception is provided for any individual employed on the effective date of these amendments, and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

§ 11.13 Requirements in transportation.

(a) All individuals who after November 23, 1981, transport, arrange for transport, drive motor vehicles in road shipments of special nuclear material, pilot aircraft in air shipments of special nuclear material, act as monitors at transfer points, or escort road, rail, sea, or air shipments of special nuclear material subject to the appropriate physical protection requirements of §§ 73.20, 73.25, 73.26, or 73.27 of this chapter shall have NRC–U special nuclear material access authorization. An exception is provided for any individual employed on the effective date of these amendments, and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

(b) Licensees who after November 23, 1981 transport or who deliver to a carrier for transport special nuclear material subject to the physical protection requirements of §§ 73.20, 73.25, 73.26, 73.27 of this chapter shall confirm and record prior to shipment the name and special nuclear material access authorization number of all drivers, escorts, and monitors assigned to the shipment. An exception to the requirement to confirm and record the SSNM access authorization number is provided for any individual employed on the effective date these amendments and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

§ 11.15 Application for special nuclear material access authorization.

(a) Application for special nuclear material access authorization, renewal, or change in level shall be filed by the employer on behalf of the applicant with the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.[3] Applications for affected individuals employed on the effective date of these amendments shall be submitted within 60 days of the effective date or within 60 days of notification of Commission approval of the amended security plan.

(b) Applications for special nuclear material access authorization shall be made on forms supplied by the Commission including:

(1) A Personnel Security Questionnaire (PSQ) completed by the individual.

(2) Two standard fingerprint cards with the individual's fingerprints (fingerprints may be taken by a local police authority).

(3) Authority to release information.

(4) Security acknowledgment form.

(5) Other related forms where specified in accompanying NRC instructions.

(6) A statement by the employer, prospective employer, or contractor, identifying the job to be assigned to or assumed by the individual and the level of authorization needed, justified by appropriate reference to the licensee's security plan.

(c) Special nuclear material access authorization shall expire 5 years following the date of issue. If continued special nuclear material access authorization is required, an application for renewal shall be submitted at least 120 days prior to expiration date. Failure to make a timely application will result in expiration of special nuclear material access authorization. Special nuclear material access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal will consist of the following:

(1) A Personnel Security Questionnaire, completed by the applicant.

(2) Two standard fingerprint cards with the individual's fingerprints.

(3) Authority to release information.

(4) Other related forms where specified in accompanying NRC instructions.

(5) A statement by the employer or contractor that at the time of application for renewal the individual's assigned or assumed job requires the level of special nuclear material access authorization which he or she holds, justified by appropriate reference to the licensee's security plan.

(d) If at any time, due to new assignment or assumption of duties, a

[2] This does not alter the requirement for methods to observe individuals within material access areas as stated in § 73.46(e)(9) of this chapter.

[3] Process times for special nuclear material access authorizations can be expected to be about 190 days for NRC–U and 130 days for NRC–R.

change in special nuclear material access authorization level from NRC "R" to "U" is required, the individual shall apply for a change of level of special nuclear material access authorization. Such an application shall include a description of the new duties to be assigned or assumed, justified by appropriate reference to the licensee's security plan.

(e) Each application for special nuclear material access authorization, renewal, or change in level shall be accompanied by the employer's remittance payable to the U.S. Nuclear Regulatory Commission according to the following schedule:

(1) New application, "U"	$1,095
(2) New application, "R"	15
(3) Renewal "U" or "R"	15
(4) Change of level "R" to "U" (full fee charged only if an investigation is required)	1,095
(5) Convert existing NRC or DOE "Q" or "Q(X)" to U or R	(1)
(6) Convert existing NRC or DOE "L" or "L(X)" to U (full fee charged only if an investigation is required)	1,095
(7) Convert existing NRC or DOE "Q", "Q(X)", "L", or "L(X)" to R	(1)

[1] No charge.

Material access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the investigations and reports of other Federal Government agencies which conduct personnel security investigations. The use of such investigations and reports is contingent upon their serving as the basis for a previous clearance approval.

Criteria for Determining Eligibility for Access to or Control Over, Special Nuclear Material

§ 11.21 Application of the criteria.

(a) The decision to grant or deny special nuclear material access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, that to grant or deny special nuclear material access authorization is or is not inimical to the common defense and security and is or is not clearly consistent with the national interest.

(b) To assist in making these determinations, on the basis of all the information in a particular case, there are set forth in § 10.11 of this chapter a number of specific types of derogatory information. These criteria are not exhaustive but contain the principal types of derogatory information which in the opinion of the Commission create a question as to the individual's eligibility for special nuclear material access authorization. These criteria are subject to continuing review and may be revised from time to time as experience and circumstances may make desirable.

(c) When the reports of investigation of an individual contain information reasonably falling within one or more of the classes of derogatory information listed in § 10.11, it shall create a question as to the individual's eligibility for special nuclear material access authorization. In such cases, the application of the criteria shall be made in light of and with specific regard to whether the existence of such information supports a reasonable belief that the granting of a special nuclear material access authorization would be inimical to the common defense and security. The Director, Division of Security may authorize the granting of special nuclear material access authorization on the basis of the information in the case or may authorize the conduct of an interview with the individual and, on the basis of such interview and such other investigation as he deems appropriate, may authorize the granting of special nuclear material access authorization. Otherwise, a question concerning the eligibility of an individual for special nuclear material access authorization shall be resolved in accordance with the procedures set forth in §§ 10.20 through 10.37 of this chapter.

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for special nuclear material access authorization by action of the Personnel Security Board,[4] the following principle shall be applied by the Board: Where there are grounds sufficient to establish a reasonable belief as to the truth of the information regarded as substantially derogatory and when the existence of such information supports a reasonable belief that granting access would be inimical to the common defense and security, this shall be the basis for a recommendation for denying or revoking special nuclear material access authorization if not satisfactorily rebutted by the individual or shown to be mitigated by circumstance.

[4] The function of the Personnel Security Board is described in Part 10 of this chapter.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

2. Paragraph (c) of § 50.34 of Part 50 of this chapter is amended to read as follows:

§ 50.34 Content of applications: technical information.

* * * * *

(c) *Physical security plan.* Each application for a license to operate a production or utilization facility shall include a physical security plan. The plan shall consist of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to comply with the requirements of Part 73 (and Part 11 of this chapter, if applicable, including the identification and description of jobs as required by § 11.11(a) of Part 11, at the proposed facility). Part II shall list tests, inspections, and other means to be used to demonstrate compliance with such requirements, if applicable.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. Paragraph (h) of § 70.22 of Part 70 of this chapter is amended to read as follows:

§ 70.22 Contents of applications.

* * * * *

(h) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium), other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the requirements of §§ 73.20, 73.40, 73.45, 73.46, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed including the identification and description of jobs as required by § 11.11(a) of Part 11 this chapter. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

(Sec. 7, Pub. L. 93-377, 88 Stat. 475; Section 161i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201))

Dated at Washington, D.C. this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-38442 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 384

[Reg. OR-173; Amdt. No. 15 to Part 384]

Transfer of Function From Office of Economic Analysis to Office of the Comptroller

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends it statement of organization to reflect a transfer of the functions and staff of the Data Requirements Division from the Office of Economic Analysis to the Office of the Comptroller.

DATES: Adopted: November 17, 1980. Effective: November 21, 1980.

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

SUPPLEMENTARY INFORMATION: In the *Summary Report, Regulatory Information Planning Project,* the Board approved the transfer of the function of establishing economic, financial, and statistical information needs, and prescribing the Board's reporting requirements, from the Office of Economic Analysis (OEA) to the Office of the Comptroller (OC). The transfer was made to align this function with other information activities within OC, and to improve the Board's information management. This rule amends the organization statement of each office, 14 CFR Part 384, to reflect the transfer.

Since this amendment is administrative in nature, affecting rules of agency organization and procedure, we find that notice and public procedure are unnecessary and that the rule may be effective immediately.

Accordingly, the Civil Aeronautics Board amends Part 384 of its Organization Regulations, *Statement of Organization, Delegation of Authority, and Availability of Records and Information* (14 CFR Part 384) as follows:

1. The authority for Part 384 is:

Authority: Sec. 204(a), Pub. L. 85-726, as amended, 72 Stat. 743 (49 U.S.C. 1324(a); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)); 81 Stat. 54 (5 U.S.C. 552); unless otherwise noted.

2. Paragraphs (a)(3) and (j) of § 384.7 are amended to read:

§ 384.7 Organization and delegation of authority.

* * * * *

(a) *The Office of the Managing Director.* * * *

(3) The Office of the Comptroller, which administers the Board's financial management system, including participation in the fundamental aspects of program development, execution, review and evaluation; performs fiscal and administrative accounting activities, including those relating to the budget and the payroll, administers subsidy payment functions, administers and operates the Board's automatic data processing facilities, controls the receipt of data submitted to the Board; designs, develops, implements, and evaluates the Board's information processing and resource management systems; establishes the need for economic, financial, and statistical information in support of regulatory analysis and decision-making; and prescribes the Board's reporting requirements.

* * * * *

(j) The Office of Economic Analysis, which is reponsible for studying demands for air transportation under various conditions of price and service, and forecasting future demand; advising the Board and staff on the economic impact of Board actions, and on the financial structure and conditions of individual air carriers and the industry in general; providing economic counsel, analysis and testimony in Board proceeding; assisting in the development of economic recommendations about U.S. international aviation relations and general regulatory policy; and working with other agencies and departments on economic matters related to airline deregulation.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-36474 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

[Reg. OR-174; Amdt. No. 105 to Part 385]

Delegations of Authority to the Comptroller

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule amends the CAB's delegations of authority to reflect a transfer of the functions and staff of the Data Requirements Division from the Office of Economic Analysis to the Office of the Comptroller.

DATES: Adopted: November 17, 1980. Effective: November 21, 1980.

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

SUPPLEMENTARY INFORMATION: For the reasons discussed in OR-173, which is being issued simultaneously with this rule, we are amending the delegations of authority that appear in 14 CFR Part 385 to reflect the transfer of the function of establishing economic, financial, and statistical information needs, and for prescribing the Board's reporting requirements, from the Office of Economic Analysis (OEA) to the Office of the Comptroller (OC).

This amendment also transfers the delegated authority for the release of international service segment data, international origin and destination statistics, and data reported by commuter air carriers on Schedule T-1 of Form 298-C from OEA to OC. This transfer is made to place the release function, which has become routine, with the staff that receives and processes the data requests.

Certain authority previously delegated to the Comptroller under 14 CFR 385.28 is being delegated to the Chief, Data Systems Management Division within OC. Part of this authority had been previously delegated to the Comptroller, and the rest had been delegated to the Director, OEA, before transfer of the data requirements function to the Comptroller. Also, certain other authority transferred from OEA to OC is being delegated to the Chief, Data Requirements Division.

Throughout this rearrangement of the Board's data requirements function, there has been no deletion or addition to the delegations.

Since this amendment is administrative in nature, affecting rules of agency organization and procedure, we find that notice and public procedure are unnecessary and that the rule may be effective immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Actions Under Delegation, Nonhearing Matters,* as follows:

1. The authority for Part 385 is:

Authority: Secs. 204(a), 1001 Pub. L. 85-726, as amended, 72 Stat. 743, 788; (49 U.S.C.

1324(a) and 1481). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, (49 U.S.C. 1324 (note)); unless otherwise noted.

2. The Table of Contents, Subpart B, is amended by retitling §§ 385.27 and 385.28 and adding new § 385.29, to read:

Subpart B—Delegation of Functions to Staff Members

Sec.

* * * * *

385.27 Delegation to the Comptroller.
385.28 Delegation to the Chief, Data Systems Management Division, Office of the Comptroller.
385.29 Delegation to the Chief, Data Requirements Division, Office of the Comptroller.

3. Sections 385.27 and 385.28 are retitled and amended to read:

§ 385.27 Delegation to the Comptroller.

The Board delegates to the Comptroller the authority to:

(a) Propose and issue amendments to the Board's reporting requirements, with the concurrence of the General Counsel and any concerned bureaus, when no person having a substantial interest expresses an objection to the change.

(b) Interpret the Board's reporting requirements. This authority may not be redelegated.

(c) Except as authority is otherwise specifically delegated, waive any of the reporting requirements upon a showing of the existence of such facts, circumstances or other grounds, and subject to such limitations or conditions, as may be prescribed for waivers in the applicable regulations.

(d) Require special reports or documentation from any air carrier under circumstances where he finds that such reports or documentation are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government.

(e) Dismiss petitions for Board action with respect to reporting matters when such dismissal is requested or consented to by the petitioner.

(f) Grant or deny requests by air carriers for extension of filing dates for reports as specified in the Economic Regulations.

§ 385.28 Delegation to the Chief, Data Systems Management Division, Office of the Comptroller.

The Board delegates to the Chief, Data Systems Management Division, Office of the Comptroller, the authority to:

(a) Grant or deny requests by air carriers for substitution of their own forms or adaptation of Board forms to meet special needs where Board approval of such form is required by the Economic Regulations.

(b) Grant or deny requests for confidential treatment of preliminary year-end financial reports.

(c) Grant or deny requests for data reported by commuter air carriers on Schedule T–1 of CAB Form 298–C in accordance with the limitations on the availability of these data contained in § 298.62 of this chapter.

(d) Grant or deny requests for use of international service segment data in accordance with the limitations on the availability of these data contained in section 19–6 of Part 241 of this chapter.

(e) Grant or deny requests for use of international origin and destination statistics in accordance with Board policy as set forth in § 399.100 of this chapter.

4. New § 385.29 is added to read:

§ 385.29 Delegation to the Chief, Data Requirements Division, Office of the Comptroller.

The Board delegates to the Chief, Data Requirements Division, Office of the Comptroller, the authority to:

(a) Prescribe, in specific instances, different passenger weight standards to approximate variations in actual experience, for reporting passenger ton-miles and available ton-miles.

(b) Establish record-retention practices required to achieve conformance with regulations promulgated by the Board.

(c) Interpret the Board's record-retention requirements.

(d) Waive any of the record-retention requirements as warranted, consistent with the provisions of Part 249 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-36473 Filed 11-20-80; 8:45 am]
BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 210, 229, 239, 240 and 249

[Release Nos. 33-6260; 34-17291; 35-21784; IC-11439; AS-284]

Technical Amendments to Rules, Forms and Schedules; Delegation of Authority to the Director of the Division of Corporation Finance

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of technical amendments to rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934 and amendments to the Commission's general organization rule relating to delegation of authority to the Director of the Division of Corporation Finance. The technical amendments correct certain outdated references, inadvertent omissions and typographical errors and clarify certain terminology and instructions; the amendments to the rule delegating authority to the Director of the Division of Corporation Finance reconcile the provisions of that rule to the provisions of recently revised Rule 12b–25.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date of the amendments, Mary Margaret Hammond at (202) 272–3059 or Elizabeth K. Norsworthy at (202) 272–2589. Thereafter, William E. Toomey at (202) 272–2573.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain technical amendments to rules, forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.) and to the Commission's general organization rule which delegates authority to the Director of the Division of Corporation Finance (17 CFR 200.30–1). The following rules, forms, and schedules are affected by these amendments: Rule 30–1; Rules 3–09 and 5–03 of Regulation S–X (17 CFR 210.3–09); Items 3, 5, 6, 7 and 9 of Regulation S–K (17 CFR 229.20); Form S–1 (17 CFR 239.11); Form S–8 (17 CFR 239.16b); Form S–11 (17 CFR 239.18); Form S–7 (17 CFR 239.26); Form S–16 (17 CFR 239.27); Form S–18 (17 CFR 239.28); Rule 12b–25 (17 CFR 240.12b–25); Rule 14a–4 (17 CFR 240.14a–4); Rule 14a–6 (17 CFR 240.14a–6); Rule 14c–5 (17 CFR 240.14c–5); Schedule 14A (17 CFR 240.14a–101); Schedule 14B (17 CFR 240.14a–102); Appendix A to Schedule 14A (17 CFR 240.14a–103); Schedule 14d–1 (17 CFR 240.14d–100); Form 8–K (17 CFR 249.308) and Form 10–K (17 CFR 249.310).

The first part of this release describes the general nature of the technical changes and the reasons therefor in order to provide a framework for understanding the text of the technical amendments set forth below. The second part of this release summarizes the amendments to the Commission's general organization rule which delegates authority to the Director of the

Division of Corporation Finance and explains the reasons for such amendments.

(I) Technical Changes

The technical amendments announced today are adopted in order (i) to amend certain rules, forms, and schedules under the Securities Act and the Exchange Act to reflect the recent adoption or amendment of certain other rules and forms under those Acts, (ii) to revise certain cross-references in the rules, forms and schedules under the Securities Act and the Exchange Act which have become outdated by reason of the adoption of uniform disclosure items in Regulation S–K; (iii) to correct certain inadvertent omissions and typographical errors made in connection with the recent adoption and amendment of Regulation S–X, Regulation S–K, and certain rules and forms under the Securities Act and the Exchange Act; and (iv) to clarify certain terminology and instructions used in certain rules and forms under the Exchange Act.

The recent adoption and amendment of certain rules and forms under the Securities Act and the Exchange Act have necessitated the amendment of certain other rules and forms in minor respects. For example, Instruction 3 to Item 6 of Regulation S–K, providing for standard disclosure of the security ownership of certain beneficial owners and management, states that the registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. In order to reflect recent amendments to Rule 13d–1(b) (17 CFR 240.13d–1(b)) [1] which provide that after December 31, 1978, certain beneficial owners must file a Schedule 13G, the first sentence of Instruction 3 is changed to read: "The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) or 13(g) of the Exchange Act." [2]

Similarly, the adoption of standard disclosure items in Regulation S–K required change in a number of cross-references in the rules, forms and schedules under the Securities Act and the Exchange Act. For example, Instruction 3 to Item 1 of Form S–11 (17 CFR 239.18), providing for disclosure of the distribution spread of the securities being registered, instructs the registrant, if any of the securities being registered are to be offered for the account of security holders, to set forth following the distribution table a reference to the information called for by Instruction 4 to Item 18. To reflect the revision of Item 18 of Form S–11 to incorporate by reference the requirements of Item 6 of Regulation S–K (Security Ownership of Certain Beneficial Owners and Management), Instruction 3 to Item 1 of Form S–11 is amended to refer to the applicable instruction in Item 6 of Regulation S–K.[3]

In the adoption of recent amendments to the rules and forms, inadvertent omissions and typographical errors were made which require correction as soon as possible. For example, when Item 11 (Management Discussion and Analysis of Financial Condition and Results of Operations) was recently added to Regulation S–K, Guides 1 and 22 to the Preparation and Filing of Registration Statements and Periodic Reports (17 CFR 231.4936) requiring similar information in Securities Act and Exchange Act filings were withdrawn. However, when the forms, rules and schedules under the Securities Act and the Exchange Act were amended to incorporate by reference new Item 11,[4] amendment of Item 14 of Schedule 14A was inadvertently omitted. Item 14 of Schedule 14A, therefore, is revised by these technical amendments to incorporate by reference the information

[1] See Exchange Act Release No. 34–14692 (April 21, 1978) (43 FR 18484).

[2] Comparable changes are as follows: The reference to General Instruction H of Form 10–K in Instruction 4 to Item 3(b) of Regulation S–K is changed to refer to General Instruction G of Form 10–K in order to reflect recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the reference to "dividends paid" in paragraph (c) of Item 9 of Regulation S–K is changed to "dividends declared" in order to reconcile the language used in Item 9 with the language used in Item 10 of Regulation S–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the reference to Items 26, 27, 28 and 30 of Form S–1 in paragraph (b) of General Instruction G to Form S–1 is changed to refer to Items 25, 26, 27 and 29 of Form S–1 in order to reflect the renumbering of S–1 items (*See* Securities Act Release No. 5949 (July 28, 1978) (45 FR 34402) and Securities Act Release No. 6019 (January 30, 1979) (44 FR 7864)); Instruction 2 to Item 14 of Form S–1 which refers to Form S–9 is deleted to reflect the rescission of Form S–9 (*See* Securities Act Release No. 5791 (December 20, 1976) (41 FR 56301)); the reference to Item 21 of Form S–1 in Instruction (b) for Summary Prospectuses in Form S–1 is changed to refer to Item 19 of Form S–1 in order to reflect the renumbering of S–1 items (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); the requirement that a registrant submit two marked copies of a registration statement on Form S–8 found in General Instruction F to Form S–8 is changed to require the submission of one marked copy in order to reflect the recent amendment of Form S–8 and Rule 464 (17 CFR 230.464) to provide for automatic effectiveness (*See* Securities Act Release No. 6190 (February 22, 1980) (45 FR 13438)); the reference to Item 22(b) of Form S–11 in paragraph (d) of Supplemental Information Required by Form S–11 is changed to refer to Item 21(b) of Form S–11 in order to reflect the renumbering of S–11 items (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); the reference to Instruction 3(b) of Instructions as to Financial Statements of Form 10–K in Rule 12b–25(f)(1) is changed to refer to Rule 3–09(a) of Regulation S–X in order to reflect the relocation of that Instruction from Form 10–K to Regulation S–X (*See* technical amendment to Rule 3.09(a) of Regulation S–X described in note 7 infra)); the reference to Form 20 in Instruction 1 to Item 9 of Schedule 14d–1 is changed to refer to Form 20–F in order to reflect the recent substitution of Form 20–F (17 CFR 240.220f) for Form 20 (*See* Exchange Act Release No. 16371 (November 29, 1979) (44 FR 70132)).

[3] Comparable changes occasioned by the adoption of Regulation S–K are as follows: The cross-reference to Item 19(a) in General Instruction F of Form S–1 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Item 19(a) in Item 21 of Form S–1 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Item 18(b) of Form S–1 in Instruction (a) for Summary Prospectuses in Form S–1 is changed to refer to Item 4(d) of Regulation S–K; the cross-reference to Item 18(a) of Form S–11 in paragraph (a) of Supplemental Information Required by Form S–11 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Part II of Form 10–K in paragraph (b) of General Instruction A to Form S–7 are changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Items 16, 17, 19 and 20 of Form S–1 in paragraph (a) of General Instruction G to Form S–7 is changed to refer to Items 3, 4, and 6 of Regulation S–K; the cross-reference to Item 19(a) of Form S–1 in paragraph (a) of General Instruction G to Form S–7 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Items 16–20 of Form S–1 in Item 10 of Form S–7 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Part II of Form 10–K in Undertaking D of Form S–7 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Items 16–20 of Form S–1 in Item 8(b) of Form S–16 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 9 of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 9 of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 9 of Schedule 14A is changed to refer to Instruction 6 of Item 4(a) of Regulation S–K; the cross-references to Items 7(d) (1) and (2) of Schedule 14A in Instruction 3(c) to Item 9 of Schedule 14A are changed to refer to Item 4(d) (1) and (2) of Regulation S–K; the cross-reference to Instruction 1 of Item 7(d) of Schedule 14A in Instruction 3(c) to Item 9 of Schedule 14A is changed to refer to Instruction 1 of Item 4(d) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 10(d) of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 10 (c) and (d) of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 10 of Schedule 14A is changed to refer to Instruction 6 of Item 4(a) of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 11 (b) and (c) of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 11(c) of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 11 of Schedule 14A is changed to refer to Instruction 6 to Item 4(a) of Regulation S–K; the cross-reference to Item 7(f) of Schedule 14A in Item 4(b) of Schedule 14B is changed to refer to Item 4(f) of Regulation S–K; the cross-references to Item 7(d) of Schedule 14A in Appendix A to Schedule 14A is changed to refer to Item 4(d) of Regulation S–K; the cross-reference to Instruction 4 to Item 7(d) of Schedule 14A in Appendix A to Schedule 14A is changed to refer to Instruction 5 to Item 4(d) of Regulation S–K.

[4] *See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630).

required by Item 11 of Regulation S–K, i.e. management discussion and analysis of financial condition and results of operations.

Similarly, when Item 7 [Exhibits] was recently added to Regulation S–K,[5] a typographical error was made in paragraph (b)(10)(b)(3) which describes certain material contracts which must be filed as exhibits. As proposed, that paragraph was drafted to require the filing of "[a]ny contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries."[6] At the time of adoption, however, the phrase "of all such assets" was mistakenly typed as "of the assets," thereby inadvertently changing the materiality test from a percentage of fixed assets to a percentage of all assets. Paragraph (b)(10)(b)(3) of Item 7 is, therefore, changed by these technical amendments to substitute the phrase "of such fixed assets" for "of the assets."[7]

Finally, certain technical amendments are adopted in order to clarify the meaning of certain rules and forms under the Exchange Act. For example, Rule 14a–4 requires that the form of proxy indicate "the identity of the persons on whose behalf the solicitation is made" if the solicitation is made other than by a majority of the board of directors. In order to make clear that a group soliciting proxies in opposition to the board of directors need not identify every individual member of the group, the above phrase has been deleted.

Similarly, the note to Rule 14a–6 ((Proxy) Material Required to be Filed) and Rule 14c–5 (Filing of Information Statement), stating that the printing of definitive copies for distribution should be deferred until staff comments are received and considered, is eliminated in view of confusion expressed as to whether the note modifies the provisions of Rule 14a–6 and 14c–5, which specify the time periods during which proxy material and information statements must be on file with the Commission. In order to make clear that the provisions of Rule 14a–6 and Rule 14c–5 should not be modified, the note is eliminated.

Instruction 4 to Form 8–K, requiring that a request for relief from financial statement requirements be separately submitted, is also clarified by stating that such requests should be addressed to the Chief Accountant of the Division of Corporation Finance.

(II) Delegated Authority

The amendments to the Commission's rule of general organization delegating authority to the Director of the Division of Corporation Finance reconcile the provisions of that rule to the provisions of recently revised Rule 12b–25.

Recent amendments to Rule 12b–25[8] eliminated applications for extensions of time to file information, documents or reports under the Exchange Act, except with respect to certain audited financial statements required by Items 2 and 7 of Form 8–K. At present, however, Rule 30–1 delegates authority to the Director of the Division of Corporation Finance to grant or deny applications filed pursuant to Rule 12b–25 for extensions of time to file information, documents or reports under the Exchange Act. Accordingly, in order to make the provisions of Rule 30–1 consistent with amended Rule 12b–25, paragraph (d)(2)(i) of Rule 30–1 is amended to grant the Director authority to extend the time for filing financial statements required by Exchange Act forms and paragraph (d)(5) is amended to delete reference to the Director's authority to grant or deny applications filed pursuant to Rule 12b–25.

Request for Comment

In connection with the Commission's continuing review of the rules, regulations, schedules and forms under the Securities Act and the Exchange Act[9], interested persons are specifically invited to submit comments identifying any additional inconsistencies, out-of-date references or confusing terminology which have not been corrected by the instant release.

Text of Amendments

17 CFR Chapter II is amended as follows:

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

1. In § 200.30–1 paragraphs (d)(2)(i) and (d)(5) are amended to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(d) * * *

(2) * * *

(i) To extend the time for filing or to permit the omission of one or more financial statements therein required or the filing in substitution therefor of appropriate statements of comparable character;

* * * * *

(5) To grant or deny applications filed pursuant to section 12(g)(1) of the Act (15 U.S.C. 78/(g)(1)) for extensions of time within which to file registration statements pursuant to that section, provided the applicant is advised of his right to have any such denial reviewed by the Commission.

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[5] *See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822).

[6] *See* Securities Act Release No. 6149 (November 16, 1979) (44 FR 67143).

[7] *See also* paragraph 9(b)(3) of the Instructions as to Exhibits in Form S–18 which is revised by these amendments to substitute the phrase "of such fixed assets" for "of the assets" to correct the same typographical error. Comparable changes are as follows: Rule 3–09(a) of Regulation S–X is changed to include former Instruction 3(b) to Financial Statements required by Form 10–K which was inadvertently omitted when the instructions to financial statements were centralized in Regulation S–X (*See* Securities Act Release No. 6234 (September 2, 1980) (45 FR 63682)); Paragraphs (b)(7) and (b)(9) of Rule 5–03 of Regulation S–X are changed to include the phrase "in the income statement or in a note thereto" which was inadvertently omitted when Regulation S–X was recently revised (*See* Securities Act Release No. 6233 (September 2, 1980) (45 FR 63660)); Item 3(e)(1) of Regulation S–K is changed to include a reference to "executive officer" in the first sentence which was inadvertently omitted at the time Item 3 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Instruction 4 to Item 5 of Regulation S–K is changed to include a reference to "affiliate of the registrant" which was inadvertently omitted at the time Item 5 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Column (2) requiring the name of the beneficial owner is added to Item 6(b) of Regulation S–K to correct its inadvertent omission at the time Item 6 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Table I of Item 7 of Regulation S–K is revised to delete the "x" from the S–8 column with respect to tax opinion exhibits to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); Table I of Item 7 of Regulation S–K is revised to delete the "x" from the S–2 column with respect to letters regarding unaudited financial information to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); the reference to "Section 410" of the Internal Revenue Code in paragraph (b)(5)(b) of Item 7 of Regulation S–K is changed to "Section 401" to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); paragraph (b)(22) of Item 7 of Regulation S–K is amended to include former Instruction 5 to Item 4 of Form 10–K which was inadvertently omitted at the time of recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the first paragraph of Item 15 of Schedule 14A is revised to add the last sentence of former Item 15(c) of Schedule 14A which was inadvertently omitted when the instructions to financial statements were centralized in Regulation S–X (*See* Securities Act Release No. 6234 (September 2, 1980) (45 FR 63682)); the second paragraph of General Instruction D of Form 10–K is revised to add two sentences which were inadvertently omitted at the time of recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)).

[8] *See* Exchange Act Release No. 16718 (April 2, 1980) (45 FR 23651).

[9] *See* Securities Act Release No. 6163 (December 5, 1979) (44 FR 72604).

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

2. In § 210.3–09 paragraph (a) is amended to read as follows:

§ 210.3–09 Financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

(a) Subject to § 210.3A–03 regarding group financial statements and paragraphs (b) and (c) of this section, there shall be filed for each majority-owned subidiary not consolidated and each 50 percent or less owned person for which the investment is accounted for by the equity method by the registrant or a consolidated subsidiary of the registrant the financial statements which would be required if each such subsidiary or other person were a registrant and were required to file financial statements. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the registrant. For purposes of a filing on form 10–K, if the fiscal year of any subsidiary not consolidated or 50 percent or less owned person ends within 90 days before the date of filing, or after the date of filing, the financial statements required by this paragraph may be filed as an amendment to the report within 90 days after the end of such subsidiary's or other person's fiscal year.

* * * * *

3. In § 210.5–03 paragraphs (b)7 and (b)9 are amended to read as follows:

§ 210.5–03 Income statements.

* * * * *

(b) * * *

7. *Non-operating income.*

State separately in the income statement or in a note thereto amounts earned from (a) dividends, (b) interest on securities, (c) profits on securities (net of losses), and (d) miscellaneous other income. Amounts earned from transactions in securities of related parties shall be disclosed as required under § 210.4–08(k). Material amounts included under miscellaneous other income shall be separately stated in the income statement or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * *

9. *Non-operating expenses.*

State separately in the income statement or in a note thereto amounts of (a) losses on securities (net of profits) and (b) miscellaneous income deductions. Material amounts included under miscellaneous income deductions shall be separately stated in the income statement or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * *

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

4. In § 229.20 Items 3, 5, 6, 7 and 9 are amended as follows:

§ 229.20 Information required in document.

* * * * *

Item 3. Directors and executive officers.

* * * * *

(b) * * *

* * * * *

Instructions. * * *

4. The information regarding executive officers called for by item 3 need not be furnished in proxy or information statements prepared in accordance with schedule 14A by those registrants relying on general instruction G of form 10–K: *Provided,* That such information is furnished in a separate item captioned Executive officers of the registrant, and included in part I of the registrant's annual report on form 10–K.

* * * * *

(e) *Business experience.* (1) Give a brief account of the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c), including his principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When an executive officer or person named in response to paragraph (c) has been employed by the registrant or a subsidiary of the registrant for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

* * * * *

Item 5. Legal proceedings.

* * * * *

Instructions. * * *

4. Any material proceedings to which any director, officer or affiliate of the registrant, any owner of record or beneficially of more than 5 percent of any class of voting securities of the registrant, or any associate of any such director, officer, affiliate of the registrant or security holder is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries, also shall be described.

* * * * *

Item 6. Security ownership of certain beneficial owners and management.

* * * * *

(b) *Security ownership of management.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them and directors and officers of the registrant as a group, without naming them. Show in column (3) the total number of shares beneficially owned and in column (4) the percent of class so owned. Of the number of shares shown in column (3), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in rule 13d–3(d)(1) under the Exchange Act.

(1)	(2)	(3)	(4)
Title of class	Name of beneficial owner	Amount and nature of beneficial ownership	Percent of class

(c) *Changes in control.*

* * * * *

Instructions. * * *

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to sections 13(d) or 13(g) of the Exchange Act. When applicable, a registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

* * * * *

Item 7. Exhibits.

* * * * *

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

	S–1	S–2	S–7	S–8	S–11	S–14	S–15	S–16
*	*		*		*	*		
(8) Opinion re tax matters	X	X	X	.....	X	X	X	X
*	*		*		*	*		
(16) Letter re unaudited financial information	X	.....	X	X	X	X	X	X
*	*		*		*	*		

(b) * * *

(5) *Opinion re legality—*

(a) * * *

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

* * * * *

(10) *Material contracts—*

(a) * * *

(b) * * *

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

* * * * *

(22) *Subsidiaries—*

(a) List all subsidiaries of the registrant, the state or other jurisdiction of incorporation or organization of each, and the names under which such subsidiaries do business. This list should be repeated in each annual filing or an express reference made to the most recent filing containing a complete and accurate list.

(b) The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as of the end of the year covered by this report. (See the definition of "significant subsidiary" in rule 1.02(v) (17 CFR 210.1–02(v) of Regulation S–X.) The names of consolidated wholly-owned multiple subsidiaries carrying on the same line of business, such as chain stores or small loan companies, may be omitted: *Provided,* The name of the immediate parent, the line of business, the number of omitted subsidiaries operating in the United States and the number operating in foreign countries are given. This instruction shall not apply, however, to banks, insurance companies, savings and loan associations or to any subsidiary subject to regulation by another federal agency.

* * * * *

Item 9. Market price of the registrant's common stock and related security holder matters.

* * * * *

(c) State the frequency and amount of any dividends declared during the past two years with respect to such common stock and briefly describe any restriction on the issuer's present or future ability to pay such dividends.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. Section 239.11 is amended to read as follows:

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

* * * * *

General Instructions

* * * * *

F. *Exchange Offers.*

If any of the securities being registered are to be offered in exchange for securities of any other issuer, the prospectus shall also include the information which would be required by Items 6 to 10 inclusive and Item 12 if the securities of such other issuer were registered on this form. Item 11 should be included if any promoter of such other issuer is a promoter, officer or director of the registrant or a security holder named in answer to Item 6(a) of Regulation S–K (17 CFR 229.20). There shall also be included the information concerning such securities of such other issuer which would be called for by Items 13, 14 or 15 if such securities were being registered. In connection with this instruction, reference is made to Role 409.

* * * * *

G. *Preparation of Part II.*

(a) * * *

(b) If the information required by Items 25, 26, 27, or 29 has been given in a registration statement, application for registration or annual report filed with the Commission pursuant to any act administered by the Commission and no additional information is needed to make the information previously filed accurate, complete and up to date, the required information may be incorporated by a specific reference to the page or pages of the previous filing which contains such information.

* * * * *

Item 14 *Long-Term Debt Being Registered.*

(f) * * *

Instruction. The instructions to Item 13 shall also apply to this item. Section 305(a)(2) of the Trust Indenture Act of 1939 shall not be deemed to require the inclusion in the registration statement or in the prospectus of any information not required by this form.

* * * * *

Item 21. *Marketing Arrangements.*

Briefly describe any arrangement known to the registrant or to any person named in answer to Item 2 or Item 6(a) of Regulation S–K (17 CFR 229.20) made for any of the following purposes:

* * * * *

Instructions as to Summary Prospectuses

* * * * *

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public; as to Item 2(a), the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; as to Item 2(c), a brief statement as to the manner of distribution; as to Item 3, a brief statement of the principal purposes for which the proceeds are to be used; Item 4; Item 5; as to Item 6, only the selected financial data (Item 10 of Regulation S–K, 17 CFR 229.20) and the ratio of earnings to fixed charges (sub items 6a–6c) need be provided; Item 7, if the registrant was organized within 5 years; as to Item 9, a brief statement of the general character of the business done and included to be done; Item 11(a); as to Item 12, a brief statement of the nature and present status of any material pending legal proceedings; as to Item 13, only 13(a)(1) and (2); as to Item 14(a), a brief statement as to interest and maturity provisions; as to Item 15, information corresponding to the foregoing; and as to Item 17 only the information required by Item 4(a) of Regulation S–K (17 CFR 229.20) with respect to outstanding options to purchase securities of any class being registered.

(b) The summary prospectus shall not contain a summary or condensation of the information required by Item 9.

5. Section 239.16b is amended to read as follows:

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

* * * * *

General Instructions

* * * * *

F. Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment; Number of Copies.

Original registration statements on this Form S–8 will become effective automatically on the twentieth day after the date of filing (Rule 456, 17 CFR 230.456), pursuant to the provisions of Section 8(a) of the Act (Rule 459, 17 CFR 230.459). Pre-effective amendments may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, 17 CFR 230.475a). Accordingly, the filing of a pre-effective amendment will not commence a new twenty-day period. Post-effective amendments on this form shall become effective upon the date of filing (Rule 464, 17 CFR 230.464). Delaying amendments are not permitted in connection with either original filings or amendments (Rule 473(d), 17 CFR 239.473(d)), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 485 (17 CFR 230.485) must be processed with the Commission staff prior to the filing of the registration statement. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (17 CFR 230.402,

230.472) shall be filed with the Commission: *Provided, however,* That the number of additional copies referred to in Rule 402(a)(2) may be reduced from ten to two and the number of additional copies referred to in Rule 472(a) may be reduced from eight to two, one of which shall be marked to clearly and precisely indicate changes.

* * * * *

6. Section 239.18 is amended to read as follows:

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

* * * * *

Item 1. *Distribution Spread.*

(a) * * *

Instructions. * * *

3. If any of the securities being registered are to be offered for the account of security holders, set forth following the above table a reference to the information called for by Instruction 8 to Item 6 of Regulation S-K (17 CFR 229.20).

* * * * *

Supplemental Information

* * * * *

(a) If within the past twelve months any report pertaining to broad aspects of the registrant's present or proposed operations, or to any substantial properties owned or to be acquired by the registrant, has been prepared for the registrant, any security holder named in answer to Item 6(a) of Regulation S-K (17 CFR 229.20) or any principal underwriter of the securities being registered, a copy of each such report shall be furnished as supplemental information. A brief statement of the use and any distribution of such report shall be furnished also. Any report submitted as supplemental information will be returned upon request.

* * * * *

(d) A brief description of any bankruptcy, receivership, assignment for the benefit of creditors or similar proceedings within the past five years with respect to any director, officer or parent of the registrant or any person named in answer to Item 21(b).

* * * * *

7. Section 239.26 is amended to read as follows:

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

General Instructions

A. *Rule as to Use of Form S-7.*

* * * * *

(b) The registrant (1) has been subject to the requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing and if the registrant has utilized Rule 12b-25(b) of the Securities Exchange Act of 1934 with respect to a report, that report has actually been filed within the time period prescribed by that rule; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3(b) under the Securities Exchange Act of 1934 and Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20) within the twelve calendar months preceding the filing of the registration statement, except that the information required by Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20) need only be provided to common stockholders and holders of securities convertible into common stock.

* * * * *

G. *Exchange offers.*

(a) If any of the securities being registered are offered in exchange for assets or securities of any other person, the prospectus shall include, in addition to the other information called for by this form, the information concerning the registrant called for by Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20). Describe any substantial interest in the other person, direct or indirect, by security holdings or otherwise, held within the past three years by the registrant or by each affiliate of the registrant or by any officer, director or security holder of the registrant named in answer to Item 6(a) of Regulation S-K (17 CFR 229.20) or by each associate of such person.

* * * * *

Item 10. *Management and Others.*

If there has been a change in control of the registrant within the past thirty-six calendar months, describe the change in control and provide any information called for by Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20) which has not been "previously reported" as defined in Rule 12b-2 (17 CFR 240.12b-2) under the Securities Exchange Act of 1934.

* * * * *

Undertakings

* * * * *

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934:

"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under Section 15(d) of the Securities Exchange Act of 1934, to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3(b) under the Securities Exchange Act of 1934, and Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20) except that the information required by Items 3, 4 and 6 of Regulation S-K need only be provided to common stockholders and holders of securities convertible into common stock."

* * * * *

8. Section 239.27 is amended to read as follows:

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

* * * * *

Item 8. *Additional Information.*

* * * * *

(b) If there has been a change in control of the issuer within the past thirty-six calendar months which has not been "previously reported" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, describe the change in control and provide any information called for by Items 3, 4 and 6 of Regulation S-K (17 CFR 229.20) which has not been "previously reported."

* * * * *

9. Section 239.28 is amended as follows:

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

* * * * *

Instructions as to Exhibits

* * * * *

(9) *Material contracts*—* * *

(b) * * *

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

* * * * *

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

10. In § 240.12b-25 paragraph (f)(1) is amended to read as follows:

§ 240.12b-25 Notification of inability to timely file all or any required portion of a Form 10-K, 20-F, 11-K or 10-Q.

* * * * *

(f) * * *

(1) Financial statements to be filed by amendment to a form 10-K as provided for by paragraph (a) of § 210.3-09 or schedules to be filed by amendment in accordance with general instruction A to form 10-K; or

* * * * *

11. In § 240.14a-4 paragraph (a) is amended to read as follows:

§ 240.14a-4 Requirements as to proxy.

(a) The form of proxy (1) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the issuer's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type on whose behalf the solicitation is made; (2) shall provide a specifically designated blank space for dating the

proxy card; and (3) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the issuer or by security holders. No reference need be made, however, to proposals as to which discretionary authority is conferred pursuant to paragraph (c) of this section.

* * * * *

§ 240.14a-6 [Amended]

12. Section 240.14a-6 is amended by eliminating the note which follows paragraph (f).

§ 240.14c-5 [Amended]

13. Section 240.14c-5 is amended by eliminating the note which follows paragraph (d).

14. In § 240.14a-101 Items 9, 10, 11, 14 and 15 are amended to read as follows:

§ 240.14a-101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 9. Bonus, profit sharing and other remuneration plans.

* * * * *

(c) State the name and position with the issuer of each person specified in item 4(a) of Regulation S-K (17 CFR 229.20) who will participate in the plan and the amount which each such person would have received under the plan for the last fiscal year of the issuer if the plan had been in effect.

(d) Furnish such information, in addition to that required by this item and item 4 of Regulation S-K (17 CFR 229.20), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to item 4(a) of Regulation S-K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S-K (17 CFR 229.20).

* * * * *

(c) If action is to be taken with respect to any plan in which directors or officers may participate, the information called for by item 4(d)(1) and (2) of Regulation S-K (17 CFR 229.20) shall be furnished for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year, in aggregate amounts for the entire period for each such person and group. If any named person, or any other director or officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and officers as a group. The information called for by this instruction 3(c) is in lieu of the information since the beginning of the issuer's last fiscal year called for by item 4(d)(1) and (2) of Regulation S-K (17 CFR 229.20). If employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to employees during the five-year period and, if the options were other than "restricted" or "qualified" stock options or options granted pursuant to an "employee stock purchase plan," as the quoted terms are defined in sections 422 through 424 of the Internal Revenue Code, state that fact and the weighted average option price per share. The information called for by this instruction may be furnished in the form of the table illustrated in Appendix A (§ 240.14a-103). See instruction 1 to item 4(d) of Regulation S-K (17 CFR 229.20).

* * * * *

Item 10. Pension and retirement plans.

* * * * *

(c) State (1) the name and position with the issuer of each person specified in item 4(a) of Regulation S-K (17 CFR 229.20) who will be entitled to participate in the plan, (2) the amount which would have been paid or set aside by the issuer and its subsidiaries for the benefit of such person for the last fiscal year of the issuer if the plan has been in effect, and (3) the amount of the annual benefits estimated to be payable to such person in the event of retirement at normal retirement date.

(d) Furnish such information, in addition to that required by this item and item 4 of Regulation S-K (17 CFR 229.20), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to item 4(a) of Regulation S-K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S-K (17 CFR 229.20). Instruction 2 to item 9 shall apply to this item.

* * * * *

Item 11. Options, warrants or rights.

* * * * *

(b) State separately the amount of options, warrants or rights received or to be received by the following persons, naming each such person: (i) Each director or officer named in answer to item 4(a) of Regulation S-K (17 CFR 229.20); (ii) each nominee for election as a director of the issuer; (iii) each associate of such directors, officers or nominees; and (iv) each other person who received or is to receive 5% or more of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 4 of Regulation S-K, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 4(a) of Regulation S-K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S-K (17 CFR 229.20).

* * * * *

Item 14. Mergers, consolidations, acquisitions and similar matters.

* * * * *

(b) * * *

(9) Furnish the information required by item 11 of Regulation S-K (17 CFR 229.20)

* * * * *

Item 15. Financial statements and supplementary data.

If action is to be taken with respect to any matter specified in items 12, 13 or 14 above, furnish the financial statements required by Regulation S-X and the supplementary financial information requested by item 12 of Regulation S-K. One copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate. In the usual case, financial statements are deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but are not deemed material where the matter to be acted upon is the authorization or issuance of common stock, otherwise than in an exchange, merger, consolidation, acquisition or similar transaction.

* * * * *

15. In § 240.14a-102 Item 4 is amended as follows:

§ 240.14a-102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a-11(c)(Rule 14a-11(c)).

* * * * *

Item 4. Further matters.

* * * * *

(b) Furnish for yourself and your associates the information required by item 4(f) of Regulation S-K (17 CFR 229.20).

* * * * *

16. Section 240.14a-103 is amended to read as follows:

§ 240.14a-103 Appendix A to Schedule 14A (§ 240.14a-101).

The table set forth below is an illustration of the presentation in tabular form of the information required by item 4(d) of Regulation S-K (17 CFR 229.20) and instruction 3(c) to item 9(d), which also applies to items 10(d) and 11(c). If only item 4(d) of Regulation S-K (17 CFR 229.20) applies and items 9, 10, and 11 are inapplicable, information need only be furnished for the period specified in item 4(d) of Regulation S-K (17 CFR 229.20), information as to shares sold may be omitted, and the reference at the foot of the table to options granted to employees may be omitted. See instruction 5 to item 4(d) of Regulation S-K. Other tabular presentations are, of course, acceptable if they include the necessary data. Tabular presentation may not be needed if only a very few options have been granted.

* * * * *

17. In § 240.14d-100 Instruction 1 to Item 9 is amended to read as follows:

§ 240.14d-100 Schedule 14D-1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

* * * * *

Item 9. Financial Statements of Certain Bidders.

* * * * *

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this item for the type of bidder specified: (a) Financial statements prepared in compliance with form 10 as amended (§ 249.210 of this chapter) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with form 20-F (§ 249.220f of this chapter) for a foreign bidder which is otherwise eligible to use such form.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

18. Section 249.308 is amended to read as follows:

§ 249.308 Form 8-K, for current reports.

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4. Filing of other financial information in certain cases.

The Commission may, upon the written request of the registrant and where consistent with the protection of investors, extend the time for filing the financial statements herein required or permit the omission of one or more of such financial statements or the filing in substitution therefor of appropriate statements of comparable character, if the required audited financial statements are not reasonably available to the registrant, because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. A written request for such relief should be submitted, separately from the subject report or the cover letter to the report, to the Chief Accountant of the Division of Corporation Finance. The request, other than a request for an extension of time to file (except where necessary for a determination of the request), shall set forth the following information:

* * * * *

19. In § 249.310 General Instruction D is amended to read as follows:

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

* * * * *

D. Signature and Filing of Report. * * *

The report shall be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions. The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the report.

* * * * *

Statutory Authority

The technical amendments set forth herein are adopted pursuant to authority in Sections 7, 10 and 19(a) of the Securities Act (15 U.S.C. 77g, 77j, 77s(a)); Sections 13, 14, 15(d) and 23(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d), 78w(a)); Sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79e(b), 79n, 79t(a)); and Sections 8, 30, 31(c) and 38(a) of The Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29, 80a-30(c) and 80a-37(a)). The amendments to the Commission's general organization rule delegating authority to the Director of the Division of Corporation Finance are adopted pursuant to Section 1(a) of the Delegation of Functions Act (15 U.S.C. 78d-1(a)).

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 13, 14, 15(d), 23(a), 48 Stat. 894, 895, 901; secs. 3, 8, 49, Stat. 1377, 1379; sec. 203(a), 49 Stat. 704; secs. 4, 5, 6, 78 Stat. 569, 570-574; secs, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 84 Stat. 1497; secs, 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833; secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841; 74 Stat. 201; 84 Stat. 1415; sec. 1(a), 76 Stat. 394; 89 Stat. 163; (15 U.S.C. 77g, 77j, 77s(a), 78m, 78n, 78o(d), 78w(a), 79e(b), 79n, 79t(a), 80a-8, 80a-29, 80a-30(c), 80a-37(a), 78d-1(a)))

Procedural Matters

With respect to the technical amendments to the rules, forms and schedules under the Exchange Act, as required by Section 23(a) of the Exchange Act (15 U.S.C. 78w(a)), the Commission has considered the impact that such technical amendments would have on competition and has concluded that such amendments would not impose any burden on competition.

With respect to the technical amendments to Regulation S-X, Regulation S-K, and the rules, forms and schedules under the Securities Act and the Exchange Act, the Commission believes that it is appropriate to adopt these technical amendments effective immediately in order to clarify rule changes adopted by the Commission on August 27, 1980 [10] and September 2, 1980 [11] and to eliminate as soon as possible potential confusion resulting from inconsistencies, inadvertent omissions and typographical errors described above. Accordingly, the Commission, pursuant to Section 553(b) of the Administrative Procedure Act ("APA") (5 U.S.C. 553(b)) for good cause finds that notice and opportunity for public comment are not required and that to provide for such notice and comment at this time is impracticable, unnecessary and contrary to the public interest. In addition, the Commission, pursuant to Section 553(d) of the APA (5 U.S.C. 553(d)) finds good cause to adopt the foregoing technical amendments effective immediately in order to clarify existing provisions of Regulations S-X and S-K and the rules, forms and schedules under the Securities Act and the Exchange Act.

With respect to the amendments to the Commission's general organization rule delegating authority to the Director of the Division of Corporation Finance, the Commission finds that such amendments relate solely to agency management and personnel and, accordingly, are excepted pursuant to Section 553(a)(2) of the APA (5 U.S.C. 553(a)(1)) from the provisions of the APA which require prior notice and comment (5 U.S.C. 553(b)) and postponement of the effective date for at least 30 days after publication in the **Federal Register** (5 U.S.C. 553(d)).

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[10] *See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822).

[11] *See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 6360) and Securities Act Release No. 6234 (September 2, 1980) (45 FR 63682).

By the Commission.

George A. Fitzsimmons,

Secretary.

November 13, 1980.

[FR Doc. 80-36388 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 229, 240

[Release Nos. 33-6261, 34-17301, 35-21792, IC-11440]

Uniform and Integrated Reporting Requirements: Management Remuneration Final Amendments to Item 4 of Regulation S-K

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission is amending Item 4 of Regulation S-K (17 CFR 229.20). In general, the amendments pertain to various aspects of remuneration disclosure including: Pension, option and stock appreciation right plans; the definition of an executive officer; compensation relating to the termination of employment; and indebtedness of management. In addition, certain technical amendments are made and certain staff interpretations are codified in the amendments. These amendments are intended to clarify disclosure requirements, to correct major distortions in the remuneration table and to provide meaningful information to investors with respect to management remuneration.

EFFECTIVE DATE: For documents filed after January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date contact Joseph G. Connolly, Jr., (202) 272-3097, Chief, Office of Tender Offers, or Bruce S. Mendelsohn (202) 272-2091, Office of Disclosure Policy; thereafter contact Ann Glickman, Office of Chief Counsel, (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today adopted amendments to Item 4 of Regulation S-K pursuant to Sections 6, 7, 8, and 19 of the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "Securities Act") and Section 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (the "Exchange Act"). These amendments involve the disclosure of management remuneration and specifically address pension, option and stock appreciation right (including phantom stock) plans, the definition of an executive officer, compensation relating to the termination of employment, indebtedness of management, transactions with management, and certain other technical amendments.

On May 6, 1980, the Commission published Release No. 33-6210 (May 6, 1980) (45 FR 31733) which proposed for comment revisions to Item 4 of Regulation S-K (the "May 1980 proposals"). While the adopted amendments adhere to the concepts represented by the proposals, certain revisions were made in response to further study and to the comment letters received.

The Commission believes that information about management remuneration is important to both stockholders and investors, because it is necessary and appropriate in evaluating the goals and policies of the company, the governance of the company, the cost of management, and the integrity of management. Accordingly, the Commission has devoted significant efforts in recent years to expand and improve disclosure in this area. However, the Commission is also aware that its rules on disclosure of management remuneration are detailed, that the costs of generating the necessary data are substantial, and that compliance would be aided by minimizing unnecessary changes in the rules. The Commission believes that these amendments correct significant distortions arising under prior rules, and therefore is not inclined to make further modifications to the basic rules, except in certain limited areas or unless further problems arise. The public is requested to continue to communicate with the Commission staff on any difficulties or further suggestions relating to remuneration disclosure, and the staff will continue to be available to provide interpretive guidance.

The following portions of this release contain a background discussion and a synopsis of the amendments which includes a discussion of certain issues raised by the commentators. However, attention is directed to the text of the amendments for a more complete understanding.

I. Background

In Release No. 33-6003 (December 4, 1978) (43 FR 58151), the Commission adopted amendments to Item 4 of Regulation S-K, substantially revising the disclosure requirements relating to management remuneration (the "1978 amendments"). The revised Item 4 required tabular and other forms of disclosure as to all remuneration from the registrant and its subsidiaries for services during the latest fiscal year by certain specified persons and officers and directors as a group.[1] The 1978 amendments resulted in part from the Commission's recognition that remuneration packages had become more diverse and complex and, as a result, disclosure had become less uniform.[2] Many forms of remuneration were not being included in the then required table[3] but instead were being disclosed through narrative discussions set forth in text, footnotes or paragraphs which, in many cases, obscured the total remuneration received. Therefore, it was the Commission's intention that the Item 4(a) remuneration table reflect all remuneration which can be quantified and related to services performed by specified members of management during the fiscal year.

The May 1980 proposals were the result of continuous monitoring and interpretation of the remuneration requirements after the 1978 amendment. While the Commission found that the remuneration table generally worked well,[4] it also recognized that certain modifications were necessary. In this regard, it became apparent that there are forms of remuneration that are difficult to quantify and relate to a particular year's services. The May 1980 proposals and the amendments adopted today reflect the Commission's belief

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[1] Item 4(a) of Regulation S-K requires tabular disclosure (the "remuneration table") of total remuneration for each of the five most highly compensated executive officers and directors and for all officers and directors as a group. The remuneration table consists of four main columns. Columns A and B call for the name of the individual or the number of persons in the group and the capacities in which such persons served during the year. Column C reports cash and cash-equivalent forms of remuneration ("current remuneration") and is separated into 2 subcolumns. Instruction 2 to Item 4(a) provides for the inclusion in Column C1 of all salaries and fees paid with respect to services rendered during the registrants's last fiscal year and the inclusion in Column C2 of other cash or cash-equivalent amounts. Column D includes remuneration for which amounts are expensed for financial reporting purposes and the measurement of benefits or the distribution or unconditional vesting thereof is subject to future events ("contingent remuneration").

[2] *See* Release No. 33-5860 (July 28, 1978) [43 FR 34415], which proposed the 1978 Item 4 amendments for comment.

[3] Required by former Item 7(a) of Schedule 14A.

[4] The Commission is of the view that management should be permitted a measure of flexibility in determining the placement of remuneration disclosure in its proxy or information statements and, accordingly, has not adopted specific requirements in this area. In this regard, the Commission notes that since the adoption of the 1978 amendments to Item 4, registrants have generally presented all remuneration disclosure together in their materials. The revisions adopted today envision that this practice will continue and that all tables relating to the various components of remuneration will remain concentrated in one section of the proxy or information statement.

that remuneration resulting from stock option, pension and stock appreciation right plans is better suited to uniform disclosure outside the parameters of the Item 4(a) table. As will be discussed below, since Column D entries are keyed to amounts expensed for financial reporting purposes, most of the Commission's concerns result from distortions caused by accounting treatment of certain economic benefits.[5]

The Commission's efforts to review, modify, and simplify the reporting requirements received support from almost all of the more than 90 commentators.[6] Most commentators believed that the proposals were a positive step forward in creating more comprehensible disclosure in this area and complimented the Commission for undertaking to review its rules. In light of the generally favorable response by the commentators and the resolution of the distortions, the Commission has determined to adopt these amendments for the 1981 proxy season.

II. Synopsis of Amendments

A. Clarification of Remuneration Included in Column C

Allocation of amounts to the proper tabular columns has created some confusion among registrants and their advisors during the past two years.[7] In particular, Instructions 3(a), 3(b) and 3(c) to Item 4(a), which list forms of compensation that may require reporting in Column D, have been the subject of many interpretive questions. For example, the Commission found that some registrants have had the misconception that amounts attributable to the remuneration plans specified in these instructions should always be reported in Column D, rather than Column C. However, Column D is to be used for remuneration amounts that have been expensed for financial reporting purposes but as to which the measurement of benefits or the distribution or unconditional vesting thereof is subject to future events. Therefore, if an amount under a specified plan is not subject to a future contingency, a Column C entry may be proper.

In order to clarify the proper allocation of amounts between Column C and D, the Commission proposed in Release No. 33–6210 to add a parenthetical note in Instruction 2 to Item 4(a) which would have stated that the specific forms of remuneration referred to in Instruction 3 to Item 4(a) are properly reported in Column C if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder is not subject to future events. The commentators who addressed the issue generally endorsed the proposal and recognized it as merely a codification of a staff interpretation contained in Release No. 33–6166 [8] and as consistent with past staff administrative practice.

In response to comments, the Commission has decided that a new Instruction 2(e) to Item 4(a) would be preferable to the proposed parenthetical note; the language of the note has been included substantially as proposed, but with additional clarification. Instruction 2(e) requires, consistently with the Commission's past interpretations, the inclusion in Column C of remuneration attributable to plans of the type described in Instruction 3 to Item 4(a) if at the end of the fiscal year such remuneration was distributed to or for the account of the specified individuals or group, or was accrued and the measurement and the distribution or unconditional vesting thereof were not subject to future events. The instruction has also been expanded to indicate that, if remuneration as conditioned on substantial future service, or if the amount or value of or entitlement to remuneration is dependent on future earnings performance or market values, the remuneration is "subject to future events" under this standard. Where part of an award is subject to future events, that part would properly be included in Column D, while the portion not subject to future events would be included in Column C.

Furthermore, several commentators noted that the language in the proposed parenthetical note was inconsistent with existing Instruction 2 to Item 4(a) (relating to Column C disclosures). It was pointed out that the proposed clarification and Instruction 3 to Item 4(a) (relating to Column D disclosures) provides that remuneration should be reported in Column C whenever not subject to future events, although current Instruction 2 to Item 4(a) includes in Column C amounts which with "reasonable certainty" will be distributed or unconditionally vested in the future. The commentators requested that the language of the instructions be made consistent so as to clarify the appropriate test for Column C amounts. To resolve the inconsistency, the Commission has revised Instruction 2 to Item 4(a) to delete the reference to "reasonable certainty" and substitute the term "not subject to future events," and has made other minor changes to conform Instructions 2, 2(e) and 3 to Item 4(a). The Commission believes that the objective test based on "future events" is more meaningful and preferable under the circumstances. These technical language changes do not, however, affect the meaning of the standard nor alter present or past staff interpretations.

B. Instruction 1(b) to Item 4(a)—Definition of Executive Officer

In Release No. 33–6210, the Commission proposed to amend the definition of the term "executive officer" appearing in Instruction 1(b) to Item 4(a)[9] by adding the following sentence:

> "Executive officers" of subsidiaries may be deemed "executive officers" of the registrant if they perform policy-making functions for the registrant.

The Commission stated that this proposal reflected the initial intention of the instruction. Indeed, in Release No. 33–6003, the Commission advised registrants that they should give careful consideration to the question of who are the appropriate individuals to be included in the table, and to whether certain highly compensated directors or employees of subsidiaries are in fact "executive officers" of the registrant. Additionally, the Commission stated that it would monitor the disclosure practices in this area to determine whether further actions were appropriate. The Commission's proposal in this area was the result of the perceived continuance of

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[5] It should be emphasized that only certain market-based plans such as options (which ordinarily are never reflected in compensation expense), and stock appreciation right and certain phantom stock plans (where changes in the market value of securities immediately affect compensation expense) are reported separately under these amendments.

[6] The commentators may be categorized as follows: management and compensation consulting firms (2); accounting associations (1); law firms and bar associations (9); banks, bank holding companies and banking associations (3); industry or trade associations (5); corporations (71); and individuals (1). Copies of the comment letters are available for public inspection and copying at the Commission's Public Reference Room (File No. S7–835). For the convenience of the public, a copy of the summary of comments prepared by the staff of the Commission has been placed in File No. S7–835 and is also available for public inspection and copying.

[7] Indeed, this was an important subject of Release No. 33–6166.

[8] In Interpretive Response 17 of Release No. 33–6166, the Division of Corporation Finance stated that with regard to deferred compensation plans (a type of plan enumerated under Instruction 3(a) to Item 4(a) with respect to Column D) for which amounts are expensed, Column D is to be used only if the distribution of remuneration under the plan or the unconditional vesting or measurement of benefits under the plan is subject to future events which represent a true contingency.

[9] Prior to the proposals, Instruction 1(b) stated that: "An 'executive officer' of a person includes its president, secretary, treasurer, any vice president in charge of a principal business unit division, or function (such as sales, administration or finance), and any other person who performs similar policy-making function."

misconceptions as to the intent of the definition and was designed to provide clarity to registrants.

Certain commentators believed that without modifications the proposal would expand the definition of executive officer unnecessarily. Pursuant to these comments the language of the proposal was reconsidered, since the intent of the proposals was to provide clarification rather than to expand the category of individuals for whom disclosure would be necessary under Item 4(a)(1). In light of the concerns expressed by the commentators, the Commission has revised the proposal by inserting the word "such" to modify the term "policy-making functions for the registrant," to indicate that the executive officer of a subsidiary must perform the same types of functions as other persons constituting executive officers of the registrant. In this regard, the Commission is providing additional guidance in response to certain comments by codifying the Division of Corporation Finance's published interpretation regarding the determination of the individuals to be named in the remuneration table.[10] New Instruction 1(c) to Item 4(a) states, in pertinent part, that "[r]egistrants should exercise a measure of flexibility in determining which individuals should be named in the remuneration table in order to avoid anomalous results and to assure that disclosure documents contain information on key policy-making members of management." The Commission recognizes that under certain circumstances an individual who is nominally one of the five most highly compensated executive officers or directors may not be one of the key policy makers. Compensation may be inflated in a given year because of a non-recurring event, such as a large bonus or commission, and to include such an executive in the persons named in the table would be inappropriate.[11] If a registrant determines not to name an executive officer in the table pursuant to the new instruction, that individual's compensation would still be included under the disclosure for the group of all officers and directors.

C. Item 4(b)—Proposed Remuneration [12]

Item 4(b) currently requires a brief description of all remuneration payments proposed to be made in the future pursuant to any plan or arrangement to the person and the group specified in the remuneration table.[13] Because of numerous public inquiries, the Commission proposed, and has adopted substantially as proposed, a new Instruction 1 to Item 4(b) to make clear that disclosure is necessary for any remunerative plan or arrangement which is operable for more than the latest fiscal year, whether or not amounts attributable to such plan or arrangement are included in the tabular or textual disclosures of remuneration pursuant to Items 4(a), 4(c) or 4(d). Although one commentator believed that inclusion of amounts in the remuneration table would provide stockholders with sufficient information, the Commission believes that the instruction is necessary to assure that stockholders are provided with a full appreciation of remuneration to be paid in the future.

The operation of the new instruction may be illustrated by the situation where amounts attributable to an ongoing bonus plan have been disclosed in Column C1 of the table. Because the bonus plan will be operable in future years, a description of the plan is necessary and, in this case, should include, among other things, brief disclosure with regard to the payment formulas and general payment schedules.

Because the disclosure of remunerative plans which will continue to operate in subsequent fiscal years has not been as complete as necessary, and in response to certain commentators, the Commission has included in Item 4(b)(1) explicit requirements as to the composition of the necessary disclosure. The Commission is concerned that many companies have responded to the Item 4(b) requirement by describing the operation of a formal, highly-structured plan [14] in terms so general that as a result there is little understanding by stockholders of the level of performance and the period of time needed to generate payments under the plan. Furthermore, there has been a failure to make clear whether the compensation measurements relate to short-term or long-term objectives or performance.

The Item 4(b)(1) description should include a summary of how each plan operates, any performance formula or measure in effect, the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. For the most part, this represents a codification of the position taken by the staff in Interpretive Response 40 in Release No. 33–6166, and will make the disclosure more meaningful to stockholders.

Disclosure as to operations of future incentive plans is essential to a shareholder's comprehension of remuneration policies. The goals explicitly or implicitly set by such plans may affect, and indeed are often specifically designed to affect, management's conduct of company affairs. The Commission expects more complete disclosure of future incentive programs as a result of the clarification of Item 4(b), and encourages companies to provide explanations of the relationship of incentive compensation programs to short-term and long-term corporate objectives.

D. Pension Plan Disclosure

As noted in the May 1980 release, many questions have arisen with regard to the disclosure of amounts relating to defined benefit and actuarial plans. In Release No. 33–6166, the staff discussed this area in detail and offered an alternate format of disclosure by way of interpretation. The purpose of the May 1980 proposals, which have been adopted substantially as proposed, was to codify the staff's suggested alternative as a mandatory requirement.

The treatment of pension and retirement plans under the 1978 amendments, set forth in Instruction 3(a)(i) to Item 4(a), required that the amount expensed for financial reporting purposes by a registrant or its subsidiaries for the year representing the contribution, payment or accrual for the account of the specified individuals or group be included in Column D if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder was subject to

[10] In Release No. 33–6027, the Division of Corporation Finance issued its interpretive views regarding certain aspects of the management remuneration disclosure requirements of Item 4, including the Division's view on the determination of which members of management comprise the five most highly compensated executive officers and directors to be named in the table.

[11] New Instruction 1(c) to Item 4(a) sets forth certain standards to be applied in making the necessary determination to exclude an executive's name in the remuneration table. However, the instruction further states that "a registrant should not apply the above standards mechanically; consideration should be given to the question of whether a person's level of remuneration would give rise to a conclusion that the person may be among the five most highly compensated, key policy-making executive officers or directors."

[12] The disclosure required by this provision is parallel to that which had been required for some time by former Item 7 of Schedule 14A (17 CFR 240.14a–101).

[13] Item 4(b) has also been separated into two sub-items and reworded. Item 4(b)(1) relates to proposed remuneration in general and Item 4(b)(2) addresses pension disclosure and is discussed below.

[14] It should be noted that Instruction 6 to Item 4(a) describes the term "plan" as used in Item 4 as including "all plans, contract, authorizations, or arrangements, whether or not set forth in any formal documents."

future events.[15] However, with respect to the overwhelming majority of defined benefit or acturial plans, the same Instruction 3(a)(i) provided that if the "amount of the contribution, payment or accrual (with) respect (to) a specified person is not and cannot readily be separately or individually calculated by the regular actuaries of the plan," then such amounts could be omitted from the remuneration table provided a footnote was included.[16] The footnote required disclosure of the excluded amounts, indicating the percentage which the aggregate contributions to the plan bore to the total covered remuneration of the plan participants, and a brief description of the remuneration covered by the plan. In turn, Item 4(b) required that, with respect to amounts so excluded under Instructions 3(a)(i) and (ii), a separate table be included to show estimated annual benefits payable upon retirement to persons in specified remuneration and year-of-service classifications.

Because of the apparent difficulty in calculating the amount of contribution attributable to each participant under most subject plans, the footnote disclosure required by former Instruction 3(a)(ii) and the Item 4(b) pension table has been extensively utilized. When this has not been the case, the Commission has reason to believe that there has been an inconsistency regarding the inclusion of amounts relating to these plans in the remuneration table. In any event, the Commission perceives little reason to continue requiring different disclosure for the same form of remuneration.

Accordingly, the adopted amendments, like the proposals, deal with all defined benefit and actuarial pension plans. The amendments adopted today will exclude all amounts relating to defined benefit or actuarial plans from the remuneration table by amending Instruction 3(a)(i) and deleting the footnote requirement of Instruction 3(a)(ii).

New Item 4(b)(2), which contains the disclosure requirements concerning such plans, has been adopted substantially as proposed. The overwhelming majority of the commentators indicated approval of the Commission's attempt to improve the nature of the disclosure in this area and considered the proposal to be an improvement over the existing format.

As a result of certain views expressed by the commentators and to assist stockholders in understanding the type of pension plan maintained by the registrant, certain revisions have been incorporated into the pension disclosure requirements as adopted.

As revised, Item 4(b)(2) will require a pension table[17] showing estimated annual benefits payable upon retirement to individuals is specified remuneration and years of service classifications. In response to a number of questions that have arisen with regard to the disclosure of amounts in response to Item 4(b)(2) as proposed and to provide for uniform disclosure, this item has been revised to require that: (1) The estimated annual benefits disclosed in the pension table include any amounts attributable to any supplementary or excess pension award plans; (2) the registrant describe the remuneration covered by the plan, and indicate its relationship to remuneration reported in Column C1 of the Item 4(a) remuneration table; (3) the registrant indicate whether the benefits listed in the pension table are subject to any deduction for Social Security benefits or other offset amounts; and (4) the amount presented in the pension table be on a straight life annuity basis notwithstanding the availability of joint survivorship provisions.

The proposed definition of "normal retirement" was not adopted because of the commentators' concerns that the term is unclear. Mandatory retirement ages, if any, vary, and the proposed disclosure for years of service at normal retirement of the individuals named in the Item(a) table would provide little meaningful information. As adopted, Item 4(b)(2) will require that registrants state the credited years of service under the plan for each of the Item 4(a) individuals so that shareholders will be able to relate the pension benefits described with the executive officers identified in the remuneration table.

The May 1980 Release contained a proposed Note following the pension table which would have provided that the table reflect reasonable increases in existing compensation levels. Most commentators considered this information to be speculative and potentially confusing to stockholders. The Note has been redrafted as Instruction 2 to Item 4(b)(2) and, at the suggestion of one commentator, registrants will be permitted to use an upper limit for the disclosure of increases in the existing compensation levels. Specifically, to provide registrants some certainty as to the amounts which should be reflected in the table, Instruction 2 to Item 4(b) provides that registrants may present, as the highest remuneration level reported, an amount equal to 120 percent of the highest amount of covered compensation which is reported in the table required by Item 4(a).

An alternative format is allowed by Instruction 3 to Item 4(b) where pension or actuarial plans are not based upon the final year's (or years') remuneration. For such plans, a registrant must provide a description of the plan (including benefit formula) and indicate the estimated annual benefits upon normal retirement[18] for individuals named in the Item 4(a) remuneration table. However, this alternative is available only for plans not suitable for disclosure in the regular pension table. All final year (or final average years) type plans must continue to be disclosed in the required pension table format.

E. Options and Stock Appreciation Rights

In the May 1980 Release, the Commission proposed certain revisions to the instructions to Item 4(a) of Regulation S–K which were designed to remove option and stock appreciation right ("SAR") plans, including certain phantom stock plans, from the remuneration table. Under the proposals, all disclosures of remuneration under such plans, previously included in the remuneration table, would be set forth in an expanded option table pursuant to Item 4(d) of the Regulation.

With few exceptions, the response of the commentators was overwhelmingly supportive of the thrust of the proposals to remove from the Item 4(a) remuneration table disclosure respecting stock option and SAR plans. Commentators who supported the proposal uniformly agreed with the Commission's position that such remuneration disclosure may bear little or no relationship to the services rendered to the registrant during the fiscal year and, consequently, may tend to distort the remuneration table and confuse the shareholder. Many of these commentators, however, advanced criticisms and suggestions with regard to the proposals, and the adopted rules are responsive to many of these concerns.

[15] Under unusual circumstances, a plan may involve arrangements to which this condition would not apply and, instead, there would in a specific fiscal year be accrued or distributed for the account of the participant a cash or cash-equivalent amount. In this situation, reporting would occur in Column C with respect to the contribution for that year. *See* Release No. 33–6027.

[16] Current Instruction 3(a)(ii) to Item 4(a).

[17] Item 4(b) currently requires a pension table only when amounts are excluded from the remuneration table.

[18] For plans not reported in the regular pension table, normal retirement age is defined (in accordance with a commentator's suggestion) as provided in the plan, or if the plan has no definition, the earliest age at which the individual may retire without benefit reduction on account of age.

1. *Option Disclosure.* Under the 1978 amendments, Instruction 2(b) to Item 4(a) specified with regard to any stock option that the spread, if any, between the acquisition price and the fair market price of the underlying security on the date of exercise be reported in Column C2 (less any amount that may have been previously reported with respect to such option).[19] This method of option disclosure may not be meaningful and may tend to distort the compensation reported in Column C2 of the remuneration table for a particular officer or director, especially for the reporting period during which an option is exercised. While option plans may represent a significant element in many compensation packages, the calculation of remuneration thereunder may not be easily attributable to a given year of service. As stated in Release No. 33–6210, there have been instances where an officer, because of market conditions or other factors, has exercised during the latest fiscal year, options received over a number of years which resulted in the inclusion in Column C2 of the entire spread between the exercise price and the fair market value of the securities received in the year of such exercise.

Because of the disclosure problems presented by option plans, the Commission proposed to exclude the "spread" resulting from the exercise of stock options from disclosure in the remuneration table, and today the Commission adopted the basic concepts and methodology of the proposal. Instruction 2(b) to Item 4(a) has been amended to exclude the fair market value of the securities (less the exercise price) received pursuant to the exercise of stock options. All option information (other than the Item 4(b)(1) description of the plan) will be disclosed pursuant to modified Item 4(d) requirements.[20]

The May 1980 Release also proposed the deletion of the *de minimis* exception in Instruction 3 to Item 4(d). Of the twelve commentators who responded to the Commission's specific inquiry in this area, only one supported the proposed deletion. However, after further study the Commission still believes that the *de minimis* exclusion is inappropriate in light of the fact that the spread relating to the exercise of options will no longer be in the remuneration table.[21] In addition, the Commission believes that no significant burden is placed on registrants because of the deletion since information on employee options and market prices of securities is readily available to the registrant.

While the proposals would have followed the current rules in requiring option disclosure to be presented for the period since the beginning of the registrant's last fiscal year,[22] a specific inquiry was made in the May 1980 release on the time period issue. The commentators were overwhelmingly in favor of a fiscal year reporting requirement. The most frequently stated reason for deleting the reporting of option transactions occurring after the close of the last fiscal year was that this deletion would eliminate the duplicative reporting of such transactions in two consecutive years. Another often expressed view was that the reporting period for option transactions should be consistent with the fiscal year reporting period for the remuneration table. In light of these comments, the Commission has determined that the fiscal year period is appropriate in most cases,[23] will better facilitate year-to-year comparisons and will create more understandable disclosure. Moreover, a fiscal year period will allow for the reporting of SARs in tandem with options along with the options to which they relate.[24]

A related new Instruction 7 to Item 4(d) was added to require disclosure of the granting of options or SARs since the end of the last fiscal year if the total market value of the underlying securities on the granting dates exceeds $50,000. Since the new options and SAR reporting provisions will already require disclosure of potential (unrealized) value at the end of the year, there appears no reason to require further information for the interim period as to exercise or realization of options or rights by which an individual obtains a portion of that potential value. Exercise or realization, and changes in potential value, will be reflected in the following year's remuneration disclosure. New grants are the only changes over which the company has control, and, accordingly, interim disclosure will be required only as to significant new grants. The Commission believes that this requirement is appropriate in light of the new fiscal year reporting period, is consistent with the more complete disclosure of future remuneration plans under Item 4(b), and will allow stockholders to appreciate more fully the operation of such plans.[25]

Proposed Item 4(d)(3) would have mandated option disclosure[26] for "all other employees" of the registrant in addition to the disclosure required for only officers and directors. The response of the commentators who specifically addressed this proposal was overwhelmingly negative. Most commentators believed that information concerning all other employees would not be material in most cases. The Commission has reconsidered its position and has decided not to require option or SAR information as to "all other employees" except where currently required.[27] Registrants are urged, however, to consider such disclosure where it would facilitate integration of Exchange Act and Securities Act disclosure such as in the Form S–8 (17 CFR 239.16b) which permits the incorporation by reference of option information appearing in an issuer's proxy statement.[28]

Under former Item 4(d), the average option price was required to be disclosed both for options exercised and options outstanding at the end of the period, but there was no actual

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[19] This is one of the few instances where Item 4 does not follow generally accepted accounting principles. In most cases, there is no accounting expense for the grant or exercise of a stock option.

[20] Instruction 5 to Item 4(d), which remains unchanged, states in pertinent part that the information called for by the Item 4(d) may be furnished in the form of the table set forth in Appendix A to Schedule 14A. Appendix A has been revised to reflect today's amendments to Item 4(d).

[21] The correlative new provisions in Item 4(d) relating to SARs not in tandem with options, which are described below, also have no *de minimis* exception.

[22] In addition, proposed Instruction 3 to Item 4(d) would have allowed option information to be reported separately for (1) option transactions during the past fiscal year; and (2) option transactions since the close of the fiscal year to the latest practicable date. Since a fiscal year period has been adopted, this proposal was not necessary and was not adopted.

[23] However, with regard to a registration statement filed under the Securities Act of 1933 by a company not subject to Exchange Act reporting requirements, new Instruction 5 to Item 4(d) requires information regarding options and SARs for the period since the beginning of the last fiscal year through a date not more than 30 days prior to the date of filing the registration statement. Further, with regard to any company, Instruction 6 to Item 4(d) has been retained and requires that information with regard to unexercised options (and SARs in tandem therewith) be presented as of a date not more than 30 days prior to the date of filing of the registration statement. It should be noted that these requirements relate only to situations where Item 4(d) information must be presented in a prospectus, rather than incorporated by reference therein.

[24] *See* discussion regarding SARs in tandem with options, *infra.*

[25] The requirement in Instruction 7 does not apply if information called for by Item 4(d) is incorporated by reference, rather than presented, in a registration statement filed pursuant to the Securities Act.

[26] Likewise, proposed Item 4(d)(vi) would have required SAR information for all other employees.

[27] *See* Items 9(d)(iii), 10(d)(iii) and 11(c)(iii) of Schedule 14A.

[28] As stated in Instruction 4 to Item 3 of Form S–8, ("Purchase of Securities Pursuant to Plan"), the information regarding options required under Item 3 of Form S–8 is more extensive than presently called for by Item 4(d) of Regulation S–K. Of course, registrants may include the balance of the Item 3 information in their proxy statements and incorporate by reference such data into a Form S–8.

disclosure in the remuneration table of amounts realized on exercise of options or of the potential value of unexercised options. The May 1980 proposals sought disclosure of amounts realized and unrealized gain as to SARs. The amendments on disclosure of potential value apply to options as well as SARs. New Item 4(d)(ii) not only requires disclosure of amounts realized from SARs held in tandem with options, but also requires disclosure of the value realized upon exercise of an option, generally the "spread" between the market price of securities received less any option price. Similarly, Item 4(d)(iii) will require disclosure of the potential (unrealized) value of all options and tandem SARs outstanding at the end of the period. (Item 4(d)(iv) requires similar disclosure for SARs not in tandem with options.)

Most commentators voiced some degree of disapproval of the concept of unrealized gain in the context of proposed stock appreciation rights table. The Commission believes, however, that the disclosure of potential (unrealized) value of outstanding options and SARs, as well as value realized upon exercise, is necessary and appropriate to a more complete understanding of the operation of such remuneration packages.[29] By moving the options and SAR disclosure out of the remuneration table, the Commission recognizes that amounts realized in connection with such remuneration are not precisely allocable to specific periods. Nevertheless, there should be some disclosure of the events which actually result in value being received by the officer or director—exercise or realization—and of the total of the individual's potential benefits. Disclosure of an average option exercise price or the SAR base price, while helpful, does not directly indicate either value realized or potential value—it is also necessary to compare the option or base price to the current market price. The Commission believes it is appropriate for registrants to make this comparison and disclose values, rather than prices.[30] Moreover, by using these value concepts, the disclosure of options and SARs will be consistent and, therefore, information concerning SARs and options can easily be integrated in the table relating to options and tandem SARs (or even in a single table relating to all options and SARs if the registrant so chooses). More generally, since option and SAR information will no longer be in the remuneration table, the Commission believes that the Item 4(d) data should be as complete and understandable as possible.

Other than the disclosure of value received upon exercise and potential (unrealized) value of outstanding options at the end of the period, Item 4(d) will require data similar to that of the former item. Item 4(d)(i) [31] requires information as to options granted during the period including (1) the title and aggregate amount of securities subject to options; (2) the average option price per share; and (3) if the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. Item 4(d)(ii) requires as to options exercised during the period disclosure of the value of securities received less any exercise price paid. Item 4(d)(iii) requires as to unexercised options information concerning (1) the amount of underlying securities involved; and (2) the aggregate potential (unrealized) value (market value of such securities less the aggregate exercise price).

2. *Stock Appreciation Rights and Phantom Stock Not in Tandem with Options.* At the time of the May 1980 proposals, the Commission was concerned that the inclusion in the remuneration table of amounts expensed for financial reporting purposes for SARs and interests in phantom stock plans may have tended to confuse shareholders as to the nature of the registrant's compensation arrangements for the fiscal year. It had become apparent that this was particularly true for unexercised rights under such market-based award plans, since these rights are subject to the unpredictable fluctuations of the market-place. Where value changes are taken into account in determining financial reporting expense for the year in which the market value changes occur, the amount reported in the remuneration table (the amount expensed) may have no relation to services rendered during the fiscal year.

Under the 1978 amendments, Instruction 3(b)(i) to Item 4(a) required that Column D of the remuneration table reflect the annual market change that is expensed for financial reporting purposes with regard to SARs and certain phantom stock plans.[32] In addition, former Instruction 3(b)(i) to Item 4(a) permitted a credit to be taken against any amounts previously reported in Column D, if in a subsequent fiscal year the registrant, in connection with the same plan or arrangement, credited its remuneration expense for financial reporting purposes. As a result of these provisions, the reporting of SARs may have consisted of positive entries in one year followed by a series of negative entries in subsequent years depending on the movement of the market price of the underlying security.

In the May 1980 Release, the Commission stated that because of the above mentioned concerns, as well as the fact that SARs and similar phantom stock plans contribute a significant percentage of the negative amounts reflected in Column D, prior Item 4(d) requirements may not have been serving the purpose of the remuneration table, which is to reflect remuneration attributable to services rendered in the latest year. In response to these considerations, the Commission proposed certain revisions to Instructions 2(b) and 3(b) to Item 4(a) and to Item 4(d) of Regulation S-K.

Generally, the May 1980 proposals were designed to exclude amounts relating to SARs and interests in certain phantom stock plans from the remuneration table, while requiring certain disclosure concerning such plans pursuant to an expanded Item 4(d) requirement. In this regard, Item 4(d) was proposed to be amended by adding two new subparts which would have required separate disclosure with

[29] It should be noted that the proposed Instruction 7 to Item 4(d) has been adopted as Instruction 8. Instruction 8 states that in calculating potential (unrealized) value of outstanding options and SARs, issuers should report the realizable value as though it had been realized at the valuation date. All outstanding rights or options with exercise prices above the market price as of the valuation date should be disregarded in determining this calculation. Therefore, potential value for options, SARs and similar rights will not be a net figure, but rather would be calculated only as to those options or rights with respect to which option or base prices were below the current market price. In this manner, the amounts realizable if exercise occurred on the reporting date will be disclosed.

[30] Of course, values realized may be subject to conditions. For example, an officer purchasing stock on exercise of an option may be obligated to hold for at least six months because of Section 16(b) of the Exchange Act (15 U.S.C. 78p(b)), and the market price may change before a sale is possible. Likewise, potential (unrealized) value may include amounts which are not currently available for an officer or director because the option or right is not yet vested or exercisable; and potential value may change after the valuation date if the market price fluctuates. A registrant is free to make appropriate disclosure of additional facts, such as vesting provisions, performance or other contingencies and market and exercise prices, which may bear on the value or potential value of remuneration. New Instruction 10 to Item 4(d) specifically allows registrants, if they choose, to set forth separately the potential value attributable to exercisable options or SARs and the potential value attributable to rights which are not currently exercisable.

[31] Items 4(d)(i), 4(d)(ii) and 4(d)(iii) also relate to stock appreciation rights granted in tandem with options. The subject of tandem SARs will be discussed below.

[32] For a further discussion of this subject, see Interpretive Responses 8 through 11 in Release No. 33-6166.

respect to SARs and interests in phantom stock plans. With regard to all such plans, proposed Item 4(d)(iv) would have called for the following information: (1) The number of SARs granted during the last fiscal year; (2) the number of SARs exercised during the last fiscal year; and (3) the number of SARs outstanding as of the end of the fiscal year. Likewise, proposed Item 4(d)(v) would have required disclosure of: (1) The unrealized gain relating to all SARs held under these plans as of the beginning of the last fiscal year; (2) the unrealized gain with respect to SARs granted during the year; (3) the value of cash or securities received upon exercise during the last fiscal year; and (4) the unrealized gain relating to all SARs held at the end of the last fiscal year. A proposed amendment to Instruction 1 to Item 4(d) would have defined the term "stock appreciation right" as including interests in phantom stock plans. However, this proposed Instruction did not otherwise define SAR or phantom stock plans. Appendix A of Schedule 14A was proposed to be expanded to accommodate the above information in a table separate from the option disclosure. As with options, use of the Appendix A format was not to be mandatory.

The Commission continues to believe that the proposed removal from the remuneration table of disclosure relating to SARs (including phantom stock), when coupled with stock options, is appropriate and that the new table will provide meaningful information to stockholders in a more easily understandable manner. For this reason, the Commission has determined to adopt the May 1980 proposals with certain modifications in response to further review and to the commentators. The following first discusses the disclosure of SARs not in tandem with options, and then discusses tandem SARs.

With few exceptions, the response of the commentators was overwhelmingly in support of the proposals to remove disclosure regarding SARs and certain phantom stock plans from the remuneration table. The commentators believed that major changes in annual remuneration created by price swings in the market have produced tabular data which is not meaningful. While supporting the concept of the proposals, some commentators criticized its methodology and suggested changes.

A common suggestion was that the Commission should define the term "phantom stock" as used in proposed Instruction 1 to Item 4(d). Since the primary reason for removing SARs from the remuneration table was to address the distortive effects of reporting market fluctuations in Column D, the Commission has decided to adopt a definition of SARs which includes interests in phantom stock plans and which is applicable only to Item 4 of Regulation S–K. This definition is consistent with the salient characteristics of SARs. Specifically, new Instruction 1 to Item 4(d) defines a SAR (including an interest in a phantom stock plan) as a compensation right or unit under which the measurement of benefits to be received is a function of the market price of the underlying security, and a change in such market value is taken into account in determining expenses for financial reporting purposes for the year in which the market value change occurs.[33]

The definition of SARs does not cover all compensation programs which may be called "stock appreciation" or "market based" plans, under which compensation is based on market value or market appreciation; nor does the definition cover performance-based plans where the measurement of compensation is unrelated to market prices of securities. For example, if a share unit (or restricted share) is expensed solely on the basis of the value of the share at the time of grant with no subsequent charge or credit to earnings reflecting market value changes, the unit (or restricted share) would not be a SAR under the above definition.[34] Also, certain commentators suggested that all contingent or future value incentive plans should be treated similarly whether market-based or performance-based. While sympathetic to such views, the Commission has not been able to develop an appropriate format which is brief and easily comprehensible and which comports with the current framework of remuneration disclosure. Therefore, performance compensation, the measurement of which is based on earnings, increases in book value or similar standards, will also continue to be reported in the Item 4(a) remuneration table. If earnings go up and, as a result, additional compensation is expensed for a period, it is appropriate to associate that expense with that period by continuing to report the expense in the remuneration table.

The rules adopted today are designed only to remove from the remuneration table those options and SARs which, if left in the table, would cause compensation expenses and remuneration to fluctuate based on market value change through the period from grant to exercise or realization. The Commission believes that this change is responsive to the most serious distortions which have arisen.

In adopting these amendments, the Commission has made the disclosure of options and SARs consistent. As to SARs not in tandem with options, Item 4(d)(iv) requires the following: (1) The number of rights granted during the period and the average base price [35] thereof; (2) the number of rights outstanding at the end of the period; (3) the value of the cash or securities received upon exercise or realization of rights during the period; (4) the number of rights outstanding at the end of the period; and (5) the potential (unrealized) value of all rights outstanding at the end of the period. Unlike the proposals, the amendments do not call for unrealized gain for all rights outstanding at the beginning of the period and unrealized gain for rights granted during the period. The Commission agrees with the commentators who stated that such disclosure was unnecessary.[36] Registrants are encouraged to combine the Item 4(d) disclosure of options and SARs wherever practicable under the circumstances. The consistency of the requirements will facilitate such integration.

3. *Stock Appreciation Rights In Tandem With Options.* In the May 1980 Release, the Commission solicited comments as to whether an instruction should be included in Item 4(d) which would address possible double-reporting of SARs that are granted in tandem with options. In the past, many questions have arisen concerning the reporting of tandem grants under Item 4(d). In most

[33] Registrants are directed to Accounting Principles Board Opinion No. 25 and appropriate interpretations thereunder.

[34] The aggregate of the change in market value from grant until issuance of the share (or lapse of restrictions) would be reflected in the remuneration table upon such issuance (or lapse); appreciation would appear in Column C2, depreciation in Column D. *See* Question and Response 12 of Release No. 33–6166. However, in the case of a deferred of bonus arrangement of the type described in Question and Response 14 of Release No. 33–6166, where the bonus amount is expensed at time of deferral and phantom stock is credited to the employee's account, Column C1 would still be used to report the bonus amount, but the right to market appreciation of the phantom stock would be reported in effect as a SAR or phantom stock under item 4(d).

[35] New Instruction 12 to Item 4(d) defines "base price" as the amount used to define benefits which are available only to the extent that the market price of the underlying security exceeds such amount. For example, a SAR with a base price of $10 (the market price at time of grant) provides for payment of a benefit equal to the amount by which the market price at time of exercise or realization exceeds $10.

[36] *See* the discussion of option disclosure, *supra*, for the commentators' views regarding unrealized value at the end of the period.

cases, the holder may exercise either the SAR or the option, but not both. That is, the market appreciation on the underlying securities may be received in the form of cash or securities in lieu of receiving securities by paying the option price upon exercise of the tandem option. Commission filings indicate that a significant portion of all SARs are in tandem with options.

The proposals would have required the separate reporting of SARs whether or not they were in tandem with options. Most commentators suggested that this would constitute double reporting of the same potential benefit and would cause confusing disclosure. Two major alternatives were advanced: (1) Disclosure of the tandem units in a combined table; and (2) separate disclosure of tandem grants coupled with an explanatory footnote. Several commentators suggested alternative tabular formats.

The amendments require a combined presentation for tandem rights within the Item 4(d) option information. In the Commission's view, this is the most feasible and logical approach. Item 4(d)(i) will require the separate identification of the amount of securities subject to options granted during the period which are in tandem with SARs. Similarly, Item 4(d)(iii) will require the separate identification of the amount of securities subject to options outstanding at the end of the period which are in tandem with SARs. All other information concerning tandem SARs will be included in the data concerning options.[37]

A definition of the term "tandem" has been added as new Instruction 11 to Item 4(d) which states, in pertinent part, "[f]or purposes of this Item 4(d), an option shall be deemed in tandem with a stock appreciation right * * * if the benefits under one represent an alternative to or reduce the benefits available under the other." This definition was considered appropriate since it includes only those SARs for which double-reporting was a problem under the proposals.

4. *Performance Unit Rights In Tandem With Options and/or SARs.* During the comment process, it came to the Commission's attention that there are some companies that are granting performance unit rights ("PURs") in tandem with options and/or SARs. Typically, such plans allow the holder the alternative of exercising a PUR and receiving either cash or shares of stock, to the extent that predetermined objectives are achieved, in lieu of exercising the related option or SAR.[38] When both a SAR and a PUR are granted in tandem with an option, accounting practice requires the expensing of an amount relating to the PUR in a given year if that is the most likely employee alternatives based on the facts available. Two commentators suggested that by failing to exclude amounts expensed for such PURs from the remuneration table the proposals would result in the double-reporting of compensation.

The Commission agrees that the appropriate location of tandem PUR information is with the related option and SAR data. In this regard, new Instruction 3(b)(3) to Item 4(a) will exclude from Column D the financial reporting expense for any form of performance or other contingent compensation unit granted in tandem with an option or SAR. Instruction 12 to Item 4(d) will require that the existence of a tandem PUR be disclosed in reference to the related option or SAR and that any value realized from such unit shall be Included under the value realized from the exercise of the related option or SAR. Likewise, any accrual balance at the end of the period with regard to such PUR will be reported under potential (unrealized) value for the related option or right.

The formulation of the term "tandem" in instruction 13 to Item 4(d) applies in the same manner with regard to PURs as it does with options and SARs. That is, a PUR will be deemed in tandem with an option and/or a SAR if the realization of value under the PUR will reduce or be an alternative to the realizable value under the option or SAR.

F. Item 4(e)—Indebtedness of Management

The Commission has adopted as proposed an amendment to Item 4(e) which expands the exception relating to indebtedness incurred in the ordinary course of business to savings and loan associations and to broker-dealers extending credit under Federal Reserve Regulation T. This proposal was generally supported by the commentators.

Under the amendment, the specified entities will not have to furnish detailed disclosure with regard to loans extended to management if a statement is included that the loans to such persons: (1) Were made in the ordinary course of business; (2) were made on substantially the same terms, including interest and collateral, as those prevailing at the time for comparable transactions with unaffiliated persons; and (3) did not involve more than the normal risk of collectibility or present other unfavorable features.[39] In the Commission's view, the same policy considerations regarding bank loans to management should apply to these other regulated industries.[40]

The Commission has also increased the *de minimis* exception in Instruction 2 to Item 4(e) from $10,000 to $25,000 to account for inflation.

G. Item 4(f)—Transactions With Management

In order to be consistent with the Item 4(a)(1) requirements, the *de minimis* exclusion in Item 4(f) has been increased from $40,000 to $50,000.

H. Item 4(h)—Termination of Employment

Proposed Item 4(h) would have required a description of any remunerative plan or arrangement, not previously disclosed, that results or would result from the termination of employment of any individual named in the remuneration table in any of the last three fiscal years. Although a number of commentators suggested that information regarding termination arrangements may be required by other sections of the proxy rules, the Commission's experience in administering the remuneration disclosure requirements has indicated a lack of disclosure of such arrangements. The Commission continues to believe that such arrangements are significant to an assessment of the registrant's compensation policy and should be disclosed. Accordingly, the proposed

[37] *See* Table I of revised Appendix A to Schedule 14A in the Text of the Amendments for a possible presentation of such information.

[38] In many cases the performance units granted under this method serve as a "safety net" for the stock options or SARs, such that, if the stock market does not adequately reflect improved company performance, the units will generate payments based on company financial results equal to a portion of a predetermined expected stock option or SAR value.

[39] One commentator suggested that the exception be expanded to include finance companies. The Commission is not convinced that the same sort of regulation as to insider loans exists for finance companies and therefore has not expanded upon the proposal.

[40] The Commission for some time has had under consideration the possible modification of the scope of the exception for management indebtedness to regulated lending entities. In addition, the Commission staff is currently considering recommending to the Commission modifications of Item 6(b) of Schedule 14A (17 CFR 240.14a–101), which requires certain disclosure as to relationships involving directors, and related aspects of Item 4(f) of Regulation S–K, which requires disclosure of transactions with officers and directors. *See* Division of Corporation Finance, Securities and Exchange Commission, Staff Report on Corporate Accountability 96th Cong., 2nd Sess. 68–92 (Comm. Print 1980) (Senate Comm. on Banking, Housing and Urban Affairs).

disclosure requirements are being adopted with revisions.

To address certain of the concerns of the commentators and to provide meaningful disclosure to stockholders, a number of revisions have been incorporated into the Item. The first revision relates to the period of time covered by the Item. As adopted, the operative period of time for disclosure of separation payments for Item 4(a) individuals has been reduced so as to require information with respect to individuals named in the Item 4(a) remuneration table either in the latest fiscal year or the preceding fiscal year.[41] The commentators' suggestion that the period of time be limited to the latest fiscal year has not been adopted. Such a period would not require disclosure of separation payments made to an Item 4(a) executive identified in the registrant's proxy statement for one year, but who terminated early in the next year and whose remuneration for that next year, as a result of the termination in mid-year, is not sufficiently high to require naming that individual in the proxy material for that year. The Commission believes that such payments should be disclosed to stockholders and accordingly has adopted the Item to include executives identified in the preceding year's proxy statements.

To eliminate the need to report immaterial termination payments, however, a $50,000 *de minimis* exclusion has been incorporated into the instructions. Although one commentator suggested that the Commission adopt a *de minimis* exemption based upon the level of remuneration reported in the Item 4(a) table, the Commission has adopted the $50,000 exemption since a specific dollar exclusion is consistent with the other *de minimis* levels set forth throughout the proxy rules, particularly Item 4(f) relating to transactions with management.

Instruction 3 has been included to define the term "previously disclosed" for the purposes of Item 4(h). The term includes situations where the arrangements have been generally disclosed in prior proxy or information statements filed with the Commission pursuant to Section 14 of the Exchange Act, notwithstanding the fact that the precise amount to be received by a given individual has not been disclosed. For example, a lump sum payment permissible under the terms of the registrant's pension plan would not be a disclosable event under the Item 4(h) provided that the registrant had included in prior year's proxy statements full disclosure with regard to the registrant's pension plan pursuant to Item 4(b).

I. Incorporation of Prior Interpretations and Technical Changes

In the May 1980 Release, the Commission reaffirmed the prior interpretive releases [42] in the area of management remuneration and noted that certain portions of those releases remain in effect to the extent consistent with or not superseded by Item 4 as amended. In response to a number of requests to reflect as many of these interpretations as possible in the clarifying amendments of Item 4, the Commission has incorporated into the text of the item those interpretive responses which have generic applications. For example, the first four basic disclosure concepts underlying the remuneration disclosure requirements set forth in Securities Act Release 6166 have been incorporated into Item 4. Similarly, the staff interpretive positions expressed in Securities Act Release 6027 and interpretive responses 13, 20, 21, 22, 23, 30, 32 and 52 of Securities Act Release 6166 have also been incorporated into the item as amended. The Commission believes that the incorporation of these interpretations will assist registrants and their advisors in preparing the remuneration portions of their disclosure documents.

The Commission, however, has not incorporated into Item 4 all the interpretive responses previously rendered by the staff, since such inclusion would needlessly expand Item 4 with unnecessary detail and interpretations not having general applicability. Accordingly, with certain exceptions,[43] the interpretive positions expressed in those releases and not incorporated into Item 4 of Regulation S-K are still in effect and may be relied upon by the registrant in responding to the requirements of Item 4.

As proposed, the Commission has renumbered certain paragraphs of Item 4 to conform these paragraphs and their subparts to the other section of the Item. The elimination of the inconsistent numbering scheme as well as new underlining (or italicizing) and indentation techniques are intended to improve the readability of the Item.

The Commission has also adopted certain technical language changes which are designed to clarify the requirements and are not substantive in nature.

Certain Findings

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition and has concluded that they would impose no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefit of these amendments to investors and registrants.

Text of Amendments

The text of Item 4, as amended is set forth below:

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

1. 17 CFR 229.20 is amended by revising Item 4 as follows:

229.20 Information required in document.

* * * * *

[41] The proposal would have required information for persons named in the Item 4(a) table in any of the last three fiscal years.

[42] In Release No. 33-5856 (August 16, 1977) (42 FR 43058), the Commission expressed the view that the existing remuneration reporting provisions required registrants to report as remuneration certain personal benefits or "perquisites." These views were codified in Instruction 2(d) to Item 4(a) of Regulation S-K with the adoption of the amendments to Item 4 in December 1978 (Release No. 33-6003 (43 FR 58151)). In Release No. 33-5904 (February 6, 1978) (43 FR 6060), the Commission's Division of Corporation Finance was authorized to publish its interpretive views regarding specific aspects of personal benefits disclosure. Although the 1978 amendments did not alter the majority of the interpretive responses expressed in the latter release, several interpretations were modified or superseded by certain provisions of the amended Item and by subsequent staff interpretation. *See* Release 33-6166 (December 12, 1979) (44 FR 74808), Part V, "Personal Benefits." In Release Nos. 33-6027 (February 22, 1979) (44 FR 16366) and 33-6166 (December 12, 1979), the Commission authorized the Division of Corporation Finance to publish its views with regard to certain interpretations of Item 4. *See also*, letter to Clark Hutton, Esq., regarding Manufacturers Hanover Corporation, dated January 24, 1980.

[43] As a result of the amendments to Item 4 adopted today the following interpretive positions expressed in Release Nos. 33-6166 and 33-5904 are no longer applicable.

In Release No. 33-6166 interpretive responses 4, 5, 8, 9, 10 and 11 relating to the reporting in the remuneration table of amounts attributable to stock options, stock appreciation rights and phantom stock plans are no longer applicable in light of the removal of amounts attributable to such plans from the Item 4(a) remuneration table. In Release No. 33-5904, interpretive responses 1, 3 and 4 have been rendered inapplicable by the nature and scope of new Item 4; interpretive responses 8 (other than the last sentence), 10, 11, 12 and 19 of that Release have been revised by Instruction 2(d) to Item 4(a); interpretive response 27 has been superseded by interpretive response 33 in Release No. 33-6166 and subparts (d) and (e) of interpretive response 7 and subpart (b) of interpretive response 35 regarding evaluation of personal benefits are no longer acceptable valuation standards.

Item 4. Management remuneration.

Item 4(a). Current remuneration.

Furnish the information required in the table below, in substantially the tabular form specified, concerning all remuneration (except remuneration for which disclosure is required by Item 4(b)(2) or Item 4(d)) paid or distributed through the latest practicable date to, or accrued through such date for the account of, the following persons and group for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year, or in specified instances, certain prior fiscal years:

Item 4(a)(1). Five executive officers or directors. Each of the five most highly compensated executive officers or directors of the registrant as to whom the total remuneration required to be disclosed in Columns C1 and C2, below, would exceed $50,000, naming each such person; and

Item 4(a)(2). All officers and directors. All officers and directors of the registrant as a group, stating the number of persons in the group without naming them.

Item 4(a)(3). Specified Tabular Format.

Remuneration Table

(A)	(B)	(C) Cash and cash-equivalent forms of remuneration		(D)
Name of individual or number of persons in group	Capacities in which served	(C1) Salaries, fees, directors' fees, commissions, bonuses	(C2) Securities or property, insurance benefits or reimbursement personal benefits	Aggregate of contingent forms of remuneration

Instructions to Item 4(a)

Instruction 1. Columns A and B: persons subject to this item.

Instruction 1(a) to Item 4(a). This Item 4(a) applies to any individual who was an executive officer, officer, or director of the registrant at any time during the fiscal year. However, subject to the last sentence of Instruction 2(b) to Item 4(a), information need not be given for any portion of the period during which such individual was not an executive officer, officer, or director of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose remuneration is to be reported in the table, it is not necessary to report remuneration which would have been reported in the table had the individual been included in prior years. For example, if a bonus was accrued for an individual and expensed for financial reporting purposes prior to the individual becoming an officer, the payment subsequent to the individual becoming an officer of the amount accrued and expensed for such bonus need not be reported. Item 4(a)(1) applies to executive officers and directors. Item 4(a)(2) applies to executive officers, other officers, and directors.

Instruction 1(b) to Item 4(a). An "executive officer" of the registrant means its president, secretary, or treasurer, any vice president of the registrant in charge of a principal business unit, division, or function (such as sales, administration or finance), and any other individual who performs similar policy-making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy-making functions for the registrant.

Instruction 1(c) to Item 4(a). Registrants should exercise a measure of flexibility in determining which individuals should be named in the remuneration table in order to avoid anomalous results and to assure that disclosure documents contain information on key policy-making members of management. Specifically, registrants may determine not to name a particular individual in the remuneration table when such individual otherwise might nominally be one of the five most highly remunerated executive officers or directors. The types of matters a registrant should consider in exercising its discretion not to name an individual include: (i) The distribution or accrual of an unusually large amount (such as a bonus or commission), otherwise required to be reflected in Column C1 or Column C2, which is not part of a recurring arrangement and is unlikely to continue under the terms of the plan or any similar plan; and (ii) the distribution or accrual of amounts relating to overseas assignments which may be attributed predominantly to such assignments. However, a registrant should not apply the above standards mechanically; consideration should be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with the individual's actual level of remuneration, would give rise to a conclusion that the individual may be among the five most highly compensated, key policy-making executive officers or directors. While the criteria set forth above may be used to determine which of the executive officers or directors shall be named in the table, the same standards should not be used as a basis for deleting such amounts from the remuneration table in response to Item 4(a)(2). Thus, while the above standards might allow a particular individual not to be one of those individually named, all relevant amounts should be reflected in the table's group totals with no exclusions based on the above standards. Moreover, if an individual is named in the table, the full amount of that individual's remuneration should be included in the remuneration table in accordance with the instructions to Item 4(a).

Instruction 2 to Item 4(a). Column C information. Column C shall include remuneration for services rendered during the fiscal year distributed to or for the account of the specified individual or group, or which is accrued and the measurement of benefits thereunder and the distribution or unconditional vesting thereof are not subject to future events. See Instruction 2(e) to Item 4(a). Column C shall also include any amount actually distributed in the latest fiscal year which relates to services rendered in a prior fiscal year, less any amount relating to the same contract, agreement, plan, or arrangement previously included in the remuneration table for a prior fiscal year, and less any amount which would have been so included but for the fact that the individual was not, in the earlier period, reflected in the remuneration table either as a named individual or a member of the group. However, if this calculation results in a credit, any such credit should be reflected in Column D and not Column C. See Instruction 3(b)(2) to Item 4(a). Column C shall include cash or cash-equivalent amounts distributed or accrued and should be segregated into two subcolumns; the first, C1, should include the forms of remuneration described in Instruction 2(a) to Item 4(a); the second, C2, should include the forms of remuneration described in Instructions 2(b), (c) and (d) to Item 4(a).

Instruction 2(a) to Item 4(a). Salaries. All cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses should be included in Column C1. Where the total amount of a bonus pool for the latest fiscal year under a bonus plan is known at the time remuneration information is filed with the Commission, but the amounts allocated to each participant will not be determined until after the information is filed, the registrant should include a footnote indicating (A) that a bonus plan exists for the latest fiscal year, (B) the individuals named in the table who are participants in the plan, and (C) that amounts have not been allocated from the bonus plan to the individuals and thus are not included in the remuneration table. If the bonus pool participants are all officers and directors, the aggregate amount of the bonus accrual shall be reported in the group disclosure. In addition, registrants are required to disclose amounts subsequently allocated to the individuals named in the remuneration table for the next fiscal year.

Instruction 2(b) to Item 4(a). Securities or property. The spread between the acquisition price, if any, and the fair market price of all securities or property acquired, under any contract, agreement, plan or arrangement (excluding remuneration for which disclosure is called for by Item 4(d)) for the benefit of any of the specified individuals or group, less any amount previously reported in the remuneration table for a prior fiscal year with respect to the same contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal

year that either of the following events occurs, or if the plan or arrangement contemplates that both such events may occur, the fair market price shall be determined as of the date during the fiscal year that the later event occurs:

(1) The recipient exercises an election (similar to the exercise of an option or right) in connection with the contract, agreement, plan or arrangement; or

(2) The recipient becomes entitled without further contingencies to retain the securities or property.

The foregoing disclosure is required with respect to an exercise or entitlement realized within the last fiscal year, even though, as permitted by a plan, the exercise or entitlement occurs shortly after termination, in the same year, of employment of the participant who is otherwise subject to remuneration disclosure for that year.

Instruction 2(c) to Item 4(a). Life or health insurance; medical reimbursement plans. The cost of premiums paid by the registrant or any of its subsidiaries on life or health insurance policies insuring any such individual or group (unless the sole beneficiary under the policy is the registrant or its subsidiaries), and the costs of any medical reimbursement plans (which may be the benefits paid under any such plans) for the benefit of the specified individuals and the group shall be allocated to such individual and group and reflected in Column C2. Information need not be furnished pursuant to this Instruction 2(c) to Item 4(a) for any costs under group life, health, hospitalization, or medical reimbursement plans which do not discriminate, in scope, terms or operation, in favor of officers or directors of the registrant and which are available generally to all salaried employees.

Instruction 2(d) to Item 4(a). Personal benefits. The value of personal benefits which are not directly related to job performance, other than those provided to broad categories of employees and which do not discriminate in scope, terms or operation in favor of officers or directors, furnished by the registrant or its subsidiaries directly or through third parties to each of the specified individuals and the group, or benefits furnished by the registrant or its subsidiaries to other persons which indirectly benefit the specified individuals.

(1) *Valuation.* Such benefits shall be valued on the basis of the registrant's and subsidiaries' aggregate actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefits, appropriate disclosure, including the aggregate value to the recipient, should be made in a footnote to the table. The registrant may choose to disclose such aggregate value, rather than aggregate incremental costs, in the table in which event such footnote disclosure is not required.

(2) *Conditional exclusion of personal benefits.* If the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which benefits are personal rather than business, the amount of such personal benefits may be omitted from the table provided that, after reasonable inquiry, the registrant has concluded that the aggregate amounts of such personal benefits which cannot be specifically or precisely ascertained do not in any event exceed $10,000 as to each individual or, in the case of a group, $10,000 for each individual in the group and has concluded that the information set forth in the table is not rendered materially misleading by virtue of the omission of the value of such personal benefits.

(3) *Footnote disclosure.* If as to an individual named in the table an amount representing personal benefits included in Column C2 exceeds 10 percent of the aggregate amount disclosed in Columns C1 and C2 or $25,000, whichever is less, include a footnote to the table stating the dollar amount or percentage of Column C2 represented by such personal benefits and briefly describing the kinds of such benefits.

Instruction 2(e) to Item 4(a). Certain remuneration which is subject to future events. Remuneration for a fiscal year under plans of the types described in Instruction 3 to Item 4(a) (excluding remuneration for which disclosure is called for by Item 4(d) or Item 4(b)(2)) shall be included in Column C for such fiscal year if as of the end of such fiscal year such remuneration was distributed to or for the account of the specified individuals or group, or was accrued and the measurement and the distribution or unconditional vesting thereof were not subject to future events. If a plan provides for remuneration, some of which is and some of which is not subject to future events, the former is reportable in Column D and the latter is reportable in Column C. Remuneration conditioned on substantial future service is subject to future events under this standard. Similarly, if the amount or value of, or entitlement to, remuneration is dependent on future earnings performance or market values, such remuneration is subject to future events under this standard. However, if dependence on future events does not represent a true contingency, remuneration should be reported in Column C.

Instruction 3 to Item 4(a). Column D. Column D shall include remuneration of the specified individuals and group in whole or in part for services rendered during the fiscal year, including but not limited to the forms of remuneration described in paragraphs (a) through (c) below, if such remuneration is properly expensed for financial reporting purposes, and the measurement of benefits thereunder or the distribution or unconditional vesting thereof is subject to future events, so that the remuneration is therefore not reportable in Column C. See Instruction 2(e) to Item 4(a). Registrants need only report remuneration in Column D as it relates to the latest fiscal year and need not report amounts expensed in previous fiscal years.

Instruction 3(a) to Item 4(a). Pension or retirement plans; annuities; employment contracts; deferred compensation plans. As to each of the specified individuals and group, include as remuneration any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to contributions, payments, or accruals for the account of any such individual or group under any existing pension or retirement plans (except remuneration for which disclosure is required by Item 4(b)(2)), annuity contracts, deferred compensation plans, or any other similar arrangements. Such remuneration should be reflected in the amounts and for the fiscal year in which they are expensed under all such plans or arrangements, including plans qualified under the Internal Revenue Code.

Instruction 3(b) to Item 4(a). Incentive and compensation plans and arrangements.

(1) With respect to remuneration under incentive or compensation plans or arrangements (other than remuneration for which disclosure is called for by Item 4(d)), pursuant to which the measure of benefits is based on objective standards or on securities (or an amount or value of securities) of the registrant or another person, granted, awarded or entered into at any time in connection with services to the registrant or its subsidiaries, include as remuneration as to each of the specified individuals and group any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to any such specified individual or group attributable to an interest in any such plan or arrangement.

(2) If the registrant has expensed amounts for financial reporting purposes and reported such amounts in the remuneration table and, in a subsequent year, in connection with the same plan or arrangement, credits its remuneration expense for financial reporting purposes, for any proper reason, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited pursuant to this instruction are so reflected in the table, include a footnote briefly stating the amount of such credit and describing such treatment. In situations in which there are several plans and virtually everyone in the remuneration table is a participant in each plan, to the extent that negative entries in Column D for individuals and for the group are attributable to the same factors, the footnote disclosure required by this Instruction 3(b)(2) to Item 4(a) may be generic in nature. If negative entries reflect changes in several types of plans or other factors not common to all individuals and the group, and separate disclosure would result in lengthy narrative, it is sufficient to provide a general explanation of the circumstances giving rise to negative entries without a separate explanation of the components of each negative entry for individuals or the group. Excessive detail should be avoided.

(3) The financial reporting expense (or credit) for any form of performance or other contingent compensation granted in tandem with options or rights under plans for which disclosure is called for by Item 4(d) shall be excluded from Column D, and the information required by Instruction 12 to Item 4(d) shall be presented.

Instruction 3(c) to Item 4(a). Stock purchase plans; profit sharing and thrift plans. Include the amount of any contribution, payment or accrual for the account of each of the specified individuals and the group under any stock purchase,

profit sharing, thrift, or similar plans which has been expensed during the fiscal year by the registrant and its subsidiaries for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

Instruction 4 to Item 4(a). Transactions with third parties. Item 4(a), among other things, includes transactions between the registrant and a third party when the primary purpose of the transaction is to furnish remuneration to the individuals or group specified in Item 4(a). Other transactions between the registrant and third parties in which persons specified in Item 4(a) have an interest, or may realize a benefit, generally are addressed by other disclosure requirements concerning the interest of management and others in certain transactions, particularly Item 4(f). Item 4(a) does not require disclosure of remuneration paid to a partnership in which any officer or director was a partner; any such transactions should be disclosed pursuant to these other disclosure requirements, and not as a note to the remuneration table presented pursuant to Item 4(a).

Instruction 5 to Item 4(a). Other permitted disclosure. The registrant may provide additional disclosure through one or more footnotes to the table, through additional lines or columns, or otherwise, describing the components of aggregate remuneration in such greater detail as is appropriate.

Instruction 6 to Item 4(a). Definition of "plan". The term "plan" as used in this Item 4 includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal documents.

Item 4(b). Proposed remuneration.

Item 4(b)(1). Briefly describe all remuneration payments proposed to be made in the future pursuant to any ongoing plan or arrangement to the individuals and group specified in Item 4(a). The description should include a summary of how each plan operates, any performance formula or measure in effect (or the criteria used to determine payment amounts), the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in scope, terms or operation in favor of officers or directors of the registrant and which are available generally to all salaried employees.

Item 4(b)(2). As to defined benefit and actuarial plans, include (in addition to describing such plans pursuant to paragraph (1) above) a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any supplementary or excess pension award plans or arrangements) to persons in specified remuneration and years-of-service classifications. Amounts presented in the pension table should be straight life annuity amounts notwithstanding the availability of joint survivorship provisions. In addition, the registrant shall (i) describe the remuneration covered by the plan, including the relationship of such covered remuneration to remuneration reported in the table as required by Item 4(a); (ii) state the credited years of service under the plan for each of the individuals named in the table required by Item 4(a), and also their current remuneration covered by the plan if it differs substantially (by more than 10% for each individual) from that set forth in Column C1 of the Item 4(a) table; and (iii) indicate whether the benefit amounts listed in the table are subject to any deduction for Social Security benefits or other offset amounts.

Example of Pension Table

Remuneration	Years of service				
	15	20	25	30	35
125,000					
150,000					
175,000					
200,000					
225,000					

Instructions to Item 4(b)

Instruction 1 to Item 4(b). Item 4(b)(1) requires a brief description of any remuneration plan or arrangement which is operable for more than the latest fiscal year, whether or not remuneration under such plan has been reported or is reportable pursuant to Items 4(a), 4(c) or Item 4(d) of this regulation.

Instruction 2 to Item 4(b). Remuneration levels set forth in the Item 4(b)(2) pension table should allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest remuneration level in the pension table an amount equal to 120% of the highest amount of covered remuneration of any individual named in the table required by Item 4(a) for the fiscal year.

Instruction 3 to Item 4(b). If the registrant has a defined benefit or acturarial pension plan or plans which are such that the use of the Item 4(b)(2) pension table is inappropriate to inform stockholders of the pension benefits that the Item 4(a) individuals may receive, because the pension benefits are not determined primarily by final compensation (or average final compensation) and years of service (such as a plan where the annual benefit is determined by a summation of a certain amount or certain percentage of compensation for each year of the individual's entire career), the registrant should describe the plan as required by Item 4(b)(2) together with the formula by which benefits are determined, and indicate the estimated annual benefits payable upon retirement at normal retirement age for the individuals specified in Item 4(a). For purposes of this Instruction 3 to Item 4(b), normal retirement age shall mean normal retirement age as defined under the plan or, if not so defined, the earliest time at which a participant may retire without any benefit reduction because of age.

Instruction 4 to Item 4(b). Under Item 4(b), a plan of deferred compensation for services as a director must be disclosed. In addition, if such arrangement is not standard for all directors, the name of each director participating in such arrangement and the amount of such remuneration earned by each should be indicated. Cross-references to the remuneration table required ty Item 4(a) may be used for this purpose. See also Item 4(c)(2).

Item 4(c). Remuneration of directors

Item 4(c)(1). Standard arrangements. Describe any standard arrangement, stating amounts, by which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

Item 4(c)(2). Other arrangements. If a director of the registrant received remuneration for services as a director during the fiscal year in addition to or in lieu of that specified by any standard arrangement, state the name of the director and the amount of such remuneration earned by each; if this information is given as to an individual named in the table required by Item 4(a), a cross-reference may be used.

Item 4 (d). Options, warrants, or rights.

Furnish the following information as to all stock appreciation rights and options to purchase securities from the registrant or any of its subsidiaries which were granted to or exercised or realized by the following persons during the registrant's last fiscal year (or, if applicable, the alternate period specified in either Instruction 5 or Instruction 6 to Item 4(d)) and as to all options and stock appreciation rights held by such persons at the end of the last fiscal year (or of such alternate period): (1) each director or executive officer named in answer to Item 4(a) (1), naming each such individual; and (2) all directors and officers of the registrant as a group, without naming them.

(i) As to options granted during the specified period, state (A) the title and aggregate amount of securities subject to options; (B) the average per share option exercise price; and (C) if the option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date shall be disclosed. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be separately set forth.

(ii) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period.

(iii) As to all unexercised options or stock appreciation rights in tandem therewith held as of the end of the specified period, state (A) the title and aggregate amount of underlying securities; and (B) the aggregate potential (unrealized) value of such options or rights, as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to options which are in tandem with stock appreciation rights, if any, should be separately set forth.

(iv) As to stock appreciation rights not in tandem with options, state (A) the number of rights granted during the specified period; (B)

the average per share base price thereof; (C) the number of rights outstanding at the end of specified period; (D) the net value of the shares (market value) or cash realized during the specifed period upon exercise or realization of any such rights, granted during the specified period or prior thereto; (E) the number of rights outstanding as of the end of the specified period; and (F) the potential (unrealized) value of all such rights outstanding as of the end of the specified period (market value less any base price).

Instructions to Item 4(d)

Instruction 1 to Item 4(d). The term "options" as used in this Item 4(d) includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given. The term "stock appreciation right" means a right representing a share of the registrant or another person under which right the holder may in the future realize compensation measurable by reference to the future market price of such share and payable in cash, securities, or other property, where a change in the market value of the share is properly taken into account in the expensing of such compensation for financial reporting purposes for the fiscal year in which the change in market value occurs. Thus, this definition may include interests in certain plans, such as some phantom stock plans, which are not denominated as stock appreciation right plans. For the purposes of this Item 4(d), if reference is made to a number of options or stock appreciation rights, such number should correspond to the number of securities to which the options or rights relate.

Instruction 2 to Item 4(d). The extension, regranting or material amendment of options or stock appreciation rights shall be deemed the granting of options and stock appreciation rights within the meaning of Item 4(d).

Instruction 3 to Item 4(d). If the options or rights relate to more than one class of securities, the information shall be given separately for each such class.

Instruction 4 to Item 4(d). The information called for by Item 4(d) may be furnished in the form of the table set forth in Appendix A to Schedule 14A.

Instruction 5 to Item 4(d). If the information called for by Item 4(d) is required to be presented in a registration statement filed pursuant to the Securities Act of 1933 on behalf of a registrant which is not then subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, such information regarding options and stock appreciation rights shall be given for the period since the beginning of the registrant's last fiscal year through a date not more than 30 days prior to the date of filing the registration statement, specifying such date. Such information may, but need not, be reported separately for option and stock appreciation right transactions during the past fiscal year and such transactions since the close of the last fiscal year through such specified date, and such information regarding options and stock appreciation rights held shall be given as of the specified date.

Instruction 6 to Item 4(d). With regard to any registrant, if the information called for by Item 4(d)(iii) is required to be presented, rather than incorporated by reference, in a registration statement filed pursuant to the Securities Act of 1933, the information required by Item 4(d)(iii) shall be reported for all options and stock appreciation rights in tandem therewith (regardless of who holds them) as of a date 30 days prior to the date of filing of the registration statement. Instructions 1 through 5 do apply.

Instruction 7 to Item 4(d). Except where the information called for by Item 4(d) is incorporated by reference, rather than presented, in a registration statement filed pursuant to the Securities Act of 1933, a registrant reporting option and stock appreciation right information on a fiscal year basis shall, if the total market value on the granting dates of securities underlying all options or stock appreciation rights granted since the end of the last fiscal year exceeds $50,000 for any executive officer or director named pursuant to Item 4(a), also present the following information as to such options and rights as of the most recent practicable date: (A) The title and aggregate amount of underlying securities, (B) the exercise or base price of such options or rights, and (C) if the exercise or base price was less than 100% of market price the underlying security on the date of grant, such fact and the market price of the underlying security.

Instruction 8 to Item 4(d). In calculating the potential (unrealized) value of outstanding rights or options, the value of an option or right shall be determined as though it had been exercised or realized on the valuation date, and without regard to the fact that actual realization of any of or all benefits under the option or right may be subject to unsatisfied contingencies or conditions. All outstanding rights or options with exercise or base prices above the market price on the valuation date shall be disregarded in making this calculation; the total should reflect only options or rights with positive unrealized values and should not be reduced by negative unrealized values.

Instruction 9 to Item 4(D). If securities rather than cash are received upon the exercise or realization of a stock appreciation right, the fair market value of said securities on the date of exercise or realization should be reported pursuant to this Item 4(d).

Instruction 10 to Item 4(d). With regard to Items 4(d)(iii) and 4(d)(iv), registrants may also state, at their option, that portion of the potential (unrealized) value reported which relates to options and/or rights that are not currently vested, exercisable or realizable.

Instruction 11 to Item 4(d). The base price of a stock appreciation right is the amount used to define benefits which are available only to the extent that the market price of the underlying security exceeds such amount. For example, a stock appreciation right with a base price of $10 (the market price on date of grant) provides for payment of a benefit equal to the amount by which the market price at time of exercise exceeds $10. In the case of a phantom stock right providing for payment of the full value of a share, without reduction by or payment of any amount, the base price is zero.

Instruction 12 to Item 4(d). If a performance unit or other contingent compensation right (other than an option or stock appreciation right) is in tandem with an option or stock appreciation right, the existence of such right shall be disclosed either with information about options pursuant to Item 4(d)(i)-(iii) (if such right is in tandem with an option or with a stock appreciation right which is itself in tandem with an option) or with information about stock appreciation rights pursuant to Item 4(d)(iv) (if such right is in tandem only with a stock appreciation right with is not itself in tandem with an option). The value realized from such rights shall be included as value realized upon exercise or realization of options or stock appreciation rights, as the case may be, and shall not be reported pursuant to Item 4(a) or Item 4(c); and the potential (unrealized) value of such rights shall be taken into account in determining the potential (unrealized) value of options or stock appreciation rights, as the case may be. See Instructions 8 and 13 to Item 4(d).

Instruction 13 to Item 4(d). For purposes of this Item 4(d), an option shall be deemed in tandem with a stock appreciation right, and a performance unit or other contigent compensation right will be deemed in tandem with an option or stock appreciation right, and vice versa in each instance, if the benefits under one represent an alternative to or reduce the benefits available under the other. Where rights or options are in tandem with one another, a registrant shall present, as potential (unrealized) value, the maximum amount which may be realized under such rights and/or options if all were exercised and/or realized on the valuation date in the manner most beneficial to the holder (without counting more than one of any benefits which are alternative to one another).

Item 4(e). Indebtedness of management. State as to each of the following persons who was indebted to the registrant or its subsidiaries at any time since the beginning of the last fiscal year of the registrant, (1) the largest aggregate amount of indebtedness outstanding at any time during such period, (2) the nature of the indebtedness and of the transaction in which it was incurred, (3) the amount thereof outstanding as of the latest practicable date, and (4) the rate of interest paid or charged thereon: (i) each director or officer of the registrant; (ii) each nominee for election as a director; and (iii) each associate of any such director, officer or nominee.

Instructions to Item 4(e)

Instruction 1 to Item 4(e). Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

Instruction 2 to Item 4(e). This Item 4(e) does not apply to any person whose aggregate indebtedness did not exceed $25,000 or 1 percent of the registrant's total assets, whichever is less, at any time during the period specified. Exclude in the determination of the amount of indebtedness all amounts due from the particular person for purchases subject to usual trade terms, for ordinary travel and expense advances and

for other transactions in the ordinary course to business.

Instruction 3 to Item 4(e). Notwithstanding Instruction 2 of Item 4(e), if the registrant or any of its subsidiaries is engaged primarily in the business of making loans and loans to any of the specified persons in excess of $25,000 or one percent of its total assets, whichever is less, were outstanding at any time during the period specified, such loans shall be disclosed. However, if the lender is a bank, savings and loan association, or a broker-dealer extending credit under Federal Reserve Regulation T (12 CFR Part 220), such disclosure may consist of a statement, if such is the case, that the loans to such persons (a) were made in the ordinary course of business, (b) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (c) did not involve more than normal risk of collectibility or present other unfavorable features.

Instruction 4 to Item 4(e). If any indebtedness required to be described arose under section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the issuer or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

Instruction 5 to Item 4(e). If the information called for by Item 4(e) is being presented in a registration statement filed pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, the information called for by Item 4(e) shall be presented for the last three fiscal years.

Item 4(f). Transactions with management. Describe briefly any transaction since the beginning of the registrant's last fiscal year or any presently proposed transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating the person's relationship to the registrant, the nature of the person's interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than five percent of any class of registrant's voting securities; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

Instructions 1 to Item 4(f)

Instruction 1 to Item 4(f). No information need be given in response to this Item 4(f) as to any remuneration or other transaction reported in response to any other subitems of this Item 4 or as to any remuneration or transaction with respect to which information may be omitted pursuant to any other paragraphs of this Item 4.

Instruction 2 to Item 4(f). No information need be given in answer to this Item 4(f) as to any transaction where:

(a) The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

(c) The amount involved in the transaction or series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $50,000; or

(d) The interest of the specified person arises solely from the ownership of securities of the registrant and the specified person receives no extra or special benefit not shared on a pro rata basis.

Instruction 3 to Item 4(f). It should be noted that this Item 4(f) calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 4(f) where:

(a) The interest arises only (1) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (2) from the direct or indirect ownership by such person and all other persons specified in Item 4(f)(1)–(4), in the aggregate, of less than a 10-percent equity interest in another person (other than a partnership) which is a party to the transaction, or (3) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which the person and all other persons specified in (1) through (4) above had an interest of less than 10 percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the registrant or any of its subsidiaries and the transaction is not material to such other person.

Instruction 4 to Item 4(f). The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

Instruction 5 to Item 4(f). In describing any transaction involving the purchase or sale of assets by or to the registrant or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. If the information prescribed by this instruction is to be included in a registration statement filed on Form S–11, disclose the aggregate depreciation claimed by the seller for federal income tax purposes, if acquired by the seller within five years prior to the transaction. Indicate the principle followed in determining the registrant's purchase or sale price and the name of the person making such determination.

Instruction 6 to Item 4(f). If the information called for by Item 4(f) is being presented in a registration statement filed pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, the period for which the information called for shall be reported is the previous three years.

Instruction 7 to Item 4(f). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

Instruction 8 to Item 4(f). Information shall be furnished in answer to this Item 4(f) with respect to transactions not excluded above which involve remuneration from the registrant or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

Instruction 9 to Item 4(f). If the filing to which this Item 4(f) relates is a registration statement under the Securities Act of 1933, information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

Instruction 10 to Item 4(f). The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this Item 4(f). There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item. The materiality of any interest or transaction is to be determined on the basis of the significance of the information to investors in light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction to each other and the amount involved in the transaction are

among the factors to be considered in determining the significance of the information to investors.

Item 4(g). Transactions with pension or similar plans. Described briefly any transactions since the beginning of the registrant's last fiscal year or any currently proposed transactions, to which any pension, retirement, savings or similar plan provided by the registrant, or any of its parents or subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than 5 percent of the outstanding voting securities of the registrant;

(4) Any relative or spouse of any of the foregoing persons, or any relative or such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant; or

(5) The registrant or any of its subsidiaries.

Instructions to Item 4(g)

Instruction 1 to Item 4(g). Instructions 2, 3, 4 and 5 to Item 4(f) shall apply to this Item 4(g).

Instruction 2 to Item 4(g). Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 4(g) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

Instruction 3 to Item 4(g). No information need be given in answer to Item 4(g) with respect to:

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of 5 percent of the aggregate remuneration received by the specified person during the registrant's last fiscal year from the registrant and its subsidiaries; or

(c) Any interest of the registrant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 4(h). Termination of employment. Describe, unless previously disclosed by the registrant in a proxy or information statement filed pursuant to section 14 of the Securities Exchange Act of 1934, any remunerative plan or arrangement, including payments to be received from the registrant, with any individual named in the Item 4(a) remuneration table for the latest or the next preceding fiscal year, if such a plan or arrangement results or will result from the resignation, retirement or any other termination by such individual of employment with the registrant and its subsidiaries.

Instructions to Item 4(h)

Instructions to Item 4(h). No information need be given in response to this Item 4(h) as to any remuneration or other transactions reported in response to any other subitems of this Item 4.

Instruction 2 to Item 4(h). No information need be given in answer to Item 4(h) as to any plan or arrangement where the amount involved in the transaction including all periodic payments or installments does not exceed $50,000.

Instruction 3 to Item 4(h). The term "previously disclosed" as used in this Item 4(h) includes situations where the arrangements have been generally disclosed in prior proxy or information statements filed with the Commission, notwithstanding the fact that the precise amount to be received by a given individual has not been precisely indicated.

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

2. Section 240.14a–103 is amended by revising Appendix A as follows:

§ 240.14a–103 Appendix A (to Schedule 14A (§ 240.14a–101)).

The tables set forth below are illustrations of the presentation in tabular form of the information required by Item 4(d) of Regulation S–K (17 CFR 229.20.4(d)) and Instruction 3(c) to Item 9(d) of Schedule 14A, which also applies to Items 10(d) and 11(c) of Schedule 14A. If only Item 4(d) of Regulation S–K applies and Items 9, 10 and 11 of Schedule 14A are inapplicable, information need only be furnished for the period specified in Item 4(d), information called for in Table I as to shares sold may be omitted, and the reference at the foot of the table to options granted to employees may be omitted. See Instruction 4 to Item 4 (d) of Regulation S–K.

Other tabular presentations, including combination of the Tables into one, are of course acceptable if they include the necessary data. Tabular presentation may not be appropriate if only a very few options or stock appreciation rights have been granted.

Table I—Stock Options and Tandem Rights

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock options and stock appreciation rights in tandem therewith (if any): (i) The title and aggregate amount of securities subject to options granted during the specified period, (ii) the average per share option exercise price thereof, (iii) the net value of shares (market value less any exercise price) or cash realized during the specified period upon the exercise or realization of such options or rights granted during the specified period or prior thereto, (iv) the numbers of shares sold during the specified period of the same class as those so acquired, and (v) the title and aggregate amount of securities subject to all such options or rights outstanding as of the end of the specified period, and (vi) the potential (unrealized) value of such outstanding options and rights as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to tandem options granted during the specified period and outstanding at the end thereof are separately shown.

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted —— to ——:				
Number of options without tandem rights				
Number of options with tandem rights				
Average per share exercise price [1]	$	$	$	$
Exercised —— to ——: Net value realized in shares (market value less any exercise price) or cash	$	$	$	$
Sales —— to ——: Number of shares				[2]
Outstanding at ——:				
Number of options[4] without tandem rights				
Number of options[4] with tandem rights				
Potential (unrealized) value (market value less exercise or base price) [3]	$	$	$	$

In addition, during the period employees were granted options and tandem rights for a total of —— shares at an average option or base price per share of $——.

[1] If the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date must be disclosed.

[2] Sales by directors and officers who exercised options during the period from —— to ——.

[3] Of the potential (unrealized) value at the end of the period, —— pct relates to exercisable options and/or tandem rights, and —— pct relates to unexercisable options and/or tandem rights.

[4] The numbers of options or rights set forth above correspond to the numbers of shares to which they relate. All share figures have been adjusted in accordance with the terms of the options or rights to reflect the stock split in 19— and, where applicable, to give effect to share dividends.

Table II.—Stock Appreciation Rights not in Tandem With Options

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock appreciation rights (including interests in certain phantom stock plans): (i) The number of such rights granted during the specified period, (ii) the average per share base price thereof, (iii) the net value of shares (market value) or cash realized during the specified period upon exercise or realization of any such rights granted during the specified period or prior thereto, (iv) the number of such rights outstanding as of the end of the specified period, and (v) the potential (unrealized) value of all such rights outstanding as of the end of the specified period (market price less any base price).

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted —— to ——:				
Number of rights[2]				
Average base price	$	$	$	$
Exercised or realized —— to ——: Net value realized in shares (market value) or cash	$	$	$	$
Outstanding at ——:				
Number of rights[2]				
Potential (unrealized) value (market value less any base price) [1]	$	$	$	$

In addition, during the period employees were granted rights relating to a total of —— shares at an average base price of $—— per share.

[1] Of the potential (unrealized) value at the end of period, —— pct relates to exercisable rights, and ——% relates to unexercisable rights.

[2] The numbers of rights set forth above correspond to the numbers of shares to which they relate. All stock appreciation right figures have been adjusted in accordance with the terms of the rights to reflect the stock split in 19— and, where applicable, to give effect to share dividends.

Authority

The amendments are adopted pursuant to the authority in sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

The Commission finds that any changes in the amended provisions form those published in Release No. 33–6210 have already been generally subject to comment and are technical in nature or less burdensome than previous rules so that further notice and rulemaking procedures pursuant to the Administrative Procedures Act (5 U.S.C. 553) are not necessary.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 14, 1980.

[FR Doc. 80-36392 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 80F-0210]

Indirect Food Additives: Adhesive Coatings and Components Vinylidene; Chloride Copolymer Coatings for Nylon Film

AGENCY: The Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of methyl methacrylate and 2-sulfoethyl methacrylate as optional comonomers in vinylidene chloride copolymer coatings for nylon film used in articles intended for food contact. This action is based on a food additive petition filed by the Dow Chemical Co.

DATES: Effective November 21, 1980; objections by December 22, 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: Marvin D. Mack, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of June 27, 1980 (45 FR 43474) announced that a food additive petition (FAP 9B3468) had been filed by the Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that § 175.360 *Vinylidene chloride copolymer coatings for nylon film* (21 CFR 175.360) be amended to provide for the safe use of methyl methacrylate and 2-sulfoethyl methacrylate as optional comonomers in vinylidene chloride copolymer coatings for nylon film used in articles intended for food contact.

FDA has evaluated data in the petition and other relevant material and finds that § 175.360 should be amended as set forth below to include the petitioned additives.

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 175 is amended in § 175.360 by revising paragraph (b), to read as follows:

§ 175.360 Vinylidene chloride copolymer coatings for nylon film.

* * * * *

(b) The coatings are prepared from vinylidene chloride copolymers produced by copolymerzing vinylidene chloride with one or more of the monomers acrylic acid, acrylonitrile, ethyl acrylate, methacrylic acid, methyl acrylate, methyl methacrylate (CAS Reg. No. 80–62–6; maximum use level 2 weight percent) and 2-sulfoethyl methacrylate (CAS Reg. No. 10595–80–9; maximum use level 1 weight percent). The finished copolymers contain at least 50 weight percent of polymer units derived from vinlyidene chloride. The finished coating produced from vinylidene chloride copolymers produced by copolymerzing vinylidene chloride with methyl methacrylate and/or 2-sulfoethyl methacrylate or with methacrylate and/or 2-sulfoethyl methacrylate together with one or more of the other monomers from this section, is restricted to use at or below room temperature.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980, submit 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, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the 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 November 21, 1980.

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

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36230 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 175

[Docket No. 80F–0223]

Indirect Food Additives: Adhesive Coatings and Components; 5-Ethyl-1,3-Diglycidyl-5-Methylhydantoin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin as a component of adhesive formulations employed in the manufacture of food-packaging materials, as requested in a petition filed by Ciba-Geigy Corp.

DATES: Effective November 21, 1980; objections by December 22, 1980.

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

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

SUPPLEMENTARY INFORMATION: Notice was published in the Federal Register of June 27, 1980 (45 FR 43473) that a food additive petition (FAP 0B3491) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin as a component of adhesive formulations employed in the manufacture of food-packaging materials.

Having evaluated data in the petition and other relevant materials, FDA concludes that the food additive regulations should be amended to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin 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 175 is amended in § 175.105(c)(5) by inserting alphabetically a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
5-Ethyl-1,3-diglycidyl-5-methylhydantoin (CAS Reg. No. 15336–82–0)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 21, 1980.

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

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36231 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 79F-0480]

Octadecyl 3,5-Di-Tert-Butyl-4-Hydroxy-Hydrocinnamate; Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for polymers in food-contact applications. This action responds to a food additive petition filed by Ciba-Geigy Corp., Ardsley, NY 10502.

DATES: Effective November 21, 1980; objections by December 22, 1980.

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

FOR FURTHER INFORMATION CONTACT: Norman C. Chang, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of February 22, 1980 (45 FR 11908) announced that a food additive petition (FAP 9B3472) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for rigid polyvinyl chloride intended for food-contact use.

Having evaluated data in the petition and other relevant material, FDA concludes that § 178.2010 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 inserting a new limitation for octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate.	For use only: * * * 7. At levels not exceeding 0.2 percent by weight of rigid polyvinyl chloride.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on the objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 21, 1980.

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

Dated: November 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36071 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Cadco, Inc., providing for safe and effective use of a 4-gram-per-pound tylosin premix for making complete swine feeds.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Cadco, Inc., P.O. Box 3599, Des Moines, IA 50322, is the sponsor of supplemental NADA 91-783 providing for use of a premix containing 4 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 10-gram-per-pound premix, for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this supplement has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this supplemental NADA did not require reevaluation of safety and effectiveness data in NADA 12-491.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347, 321 U.S.C. (60b(i))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(4) to read as follows:

§ 558.625 Tylosin

* * * * *

(b) * * *

(4) To 011490: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective November 21, 1980.

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

Dated: November 13, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-36416 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Arizona State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: The State of Arizona has submitted plan supplements describing changes in its occupational safety and health program. These are: adoption of regulations concerning variances and discrimination; revision of recordkeeping regulations; and revision of the Field Operations Manual and other operating procedures. This document announces the approval of the Arizona plan supplements.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523-6021.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on October 29, 1974 (39 FR 39037). Part 1953 of this Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

A. *Variance regulations.* The State has adopted regulations for the granting of variances to occupational safety and health standards which are comparable to the Federal regulations in Part 1905 of this Chapter.

B. *Discrimination regulations.* The State has adopted regulations concerning the filing and processing of complaints alleging discrimination for exercising one's rights under the law. These regulations, which were adopted on September 22, 1977, are comparable to the Federal regulations in Part 1977 of this chapter.

C. *Recordkeeping regulations.* The State has revised its recordkeeping regulations to conform to Federal changes in form number and employee access to records and to add definitions for public sector coverage. The State has also published a booklet containing both its recordkeeping regulations and the portion of its law concerning recordkeeping.

D. *Changes to Field Operations Manual and other operating procedures.* The State has revised its Field Operations Manual and has adopted directives in response to changes in the Federal program. These changes include: revision of the classification and penalty system; procedures for processing employee complaints; procedures for investigating criminal willful violations; and procedures for scheduling of follow-up inspections.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85005.

Public Participation

Under § 1953.2 of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable laws. The Assistant Secretary finds that the Arizona plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the Arizona plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Accordingly, § 1952.350 of Part 1952 of this Chapter is amended by adding new paragraphs (i) and (j).

§ 1952.350 Description of plan.

* * * * *

(i) Regulations concerning variances were promulgated on November 16, 1977, and were approved by the Assistant Secretary on November 13, 1980.

(j) Regulations concerning discrimination complaints were promulgated on September 22, 1977, and were approved by the Assistant Secretary on November 13, 1980.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36484 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Approval of Supplements to Hawaii State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of Hawaii has submitted plan supplements describing changes in its occupational safety and health program. The supplements are amendments to recordkeeping regulations and amendments to variance regulations. This notice publishes OSHA's decision that the Hawaii plan supplements are consistent with commitments in the State occupational safety and health plan and are therefore approved.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT:

Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational, Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

The Hawaii Occupational Safety and Health plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on January 4, 1974 (39 FR 1010). Part 1953 of the Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Hawaii's change supplement regarding variance regulations was submitted in response to Federal review of Hawaii's previous temporary variance submission. Federal OSHA objected to the previous regulation, which was comparable to neither the Federal temporary nor permanent variance regulations.

Federal regulations allow for temporary variances only before the effective date of a standard, and require the applicant to state when he will comply with the standard. Federal regulations allow for permanent variances only if the employer provides equivalent protection. The previous Hawaii regulation appeared to allow for variances after the effective date of a standard without requiring the employer to provide equivalent protection. To address this Federal concern, Hawaii offered an assurance that a temporary variance would be granted only under specified conditions when it would provide employee protection equivalent or superior to that afforded by the standard, and when it woud be the safest feasible solution after all relevant factors had been considered. This change supplement amends the Hawaii variance regulations to incorporate this assurance.

Description of Supplements

A. *Recordkeeping Regulation.* In August 1977, January 1978, August 1978 and August 1979, Hawaii amended its regulations on recording and reporting occupational injuries and illnesses (chapter 103 of the Hawaii occupational safety and health standards, rules and regulations). These amendments, which reflect changes to the comparable Federal regulations (29 CFR Part 1904), include access to records by employees, former employees and their representatives, and changes in recordkeeping forms.

B. *Variance Regulations.* In August 1979, the State amended its rules of practice for variances (chapter 104 of the Hawaii occupational safety and health standards, rules and regulations) to clarify the criteria for granting short-term variances. These variances will only be granted under specified conditions, where they will provide protection equivalent or superior to that afforded by the standard, and when approved procedure will be the safest feasible solution after all relevant factors have been considered.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 3rd and Constitution Avenues NW., Room N–3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and the Department of Labor and Industrial Relations, 825 Mililani Street, Room 308, Honolulu, Hawaii 96813.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable laws. The Assistant Secretary finds that the Hawaii plan supplements described above are consistent with State plan regulations generally, and with 29 CFR Part 1902 Subpart B, particularly. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the Hawaii plan supplements described above are hereby approved under Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart Y of 29 CFR 1952 is amended by adding a new section and paragraph as follows:

§ 1952.315 Changes to approved plans.

(a) In accordance with Subparts C and E of Part 1953 of this Chapter, the following plan change supplements, effective August 1979, were approved by the Assistant Secretary on November 13, 1980.

(1) Hawaii amended its regulations on recordkeeping and reporting of occupational injuries and illnesses to allow access to records by employees, former employees and their representatives, and also to change its recordkeeping forms.

(2) Hawaii amended its variance rules to clarify the fact that temporary variances will only be granted under specified conditions, where equivalent or superior protection is assured and where the variance is the safest feasible solution.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–36462 Filed 11–20–80; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1952

Approval of Supplements to Virginia State Plans

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: Various supplements to the Virginia State Plan are approved. Supplements representing completion of developmental steps include: posters for private and public sector workplaces; initiation of a voluntary compliance program which includes on-site consultation services for the public sector; full staffing of the on-site consultation program; the enforcement of fire standards by the Virginia Department of Labor and Industry; the institution of an automated Management Information System; and the inclusion of the Directors of Industry and Construction Safety Divisions under the State merit system.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Schultze, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Room N–3613, 200 Constitution Ave. NW., Washington, D.C. 20210, (202) 523–8085.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the

development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On September 28, 1976, notice was published in the Federal Register (41 FR 42655) of the approval of the Virginia Plan and the adoption of Subpart EE containing the decision and describing the Plan. By letters dated February 18, 1977, and March 31, 1977, from Edmond M. Boggs, Commissioner of the Virginia Department of Labor and Industry, and by letters dated May 4, 1977, September 12, 1977, January 4, 1978, March 1, 1978, and August 15, 1978, from Robert F. Beard Jr., Commissioner of the Virginia Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Virginia submitted State-initiated and developmental change supplements. Following regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) for determination as to whether they should be approved. The supplements are described below.

Description of the Supplements

1. *Enforcement of Fire Standards.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(b), the State of Virginia was to develop a plan for delegation of authority to the State Fire Marshal for fire standards development and enforcement, to be completed by December 31, 1976, with necessary legislative action and program implementation by July 1, 1978. By a letter dated February 18, 1977, the State requested an extended deadline of April 1, 1978, for completion of an agreement with the State Fire Marshal's Office. In the interim, the Department of Labor and Industry would conduct inspections and enforcement of fire standards. By an additional letter dated August 15, 1978, the State announced that it was unable to arrive at an agreement with the State Fire Marshal acceptable to OSHA and therefore asked that the State Fire Marshal Agreement be deleted from the State Plan. The responsibility for enforcing fire standards would remain with the Department of Labor and Industry.

2. *State Posters.* In accordance with the requirements of the developmental step set forth in 29 CFR 1952.373(c), the State was to have developed and distributed posters informing public and private employees of their rights and responsibilities. On May 4, 1977, the State submitted a poster which is required to be posted in all private workplaces. A poster for public employees was submitted on September 12, 1977. The posters contain, among other things, provisions notifying employees of their obligations and rights under the Virginia Occupational Safety and Health Law, their right to request workplace inspections and their right to remain anonymous, their protection against discharge and discrimination for the exercise of their rights under Federal and/or State laws, and their right to file complaints concerning the administration of the State program with the Occupational Safety and Health Administration.

3. *Voluntary Compliance Program.* In accordance with the requirement of the development step set forth in 29 CFR 1952.373(d), the State was to have developed and initiated a program to encourage voluntary compliance by employers and employees, including provision for on-site consultation services, which program will not detract from its enforcement program. By a letter dated March 31, 1977, the State announced that a voluntary compliance program, which included on-site consultation, had become operative on March 15, 1977. On October 1, 1977 the State entered into an agreement under Section 7(c)(1) of the Act with the U.S. Department of Labor for on-site consultation services in the private sector. By a letter dated March 1, 1978, the State announced that on-site consultation services for the private sector were no longer provided for by the voluntary compliance program of the State Plan. Safety and health education and training activities, as well as on-site consultation for the public sector, were retained under the voluntary compliance program of the State Plan.

4. *On-Site Consultation Program Staffing.* In accordance with the requirement of the development step set forth in 29 CFR 1953.373(f), both safety and health consultation programs were to be fully staffed by Fiscal Year 1979. As mentioned above, on-site consultation in the private sector was covered by a Section 7(c)(1) agreement between the State and the U.S. Department of Labor as of October 1, 1977. The State plan did retain, however, provisions for on-site consultation in the public sector. Monitoring by OSHA has verified that the State's public sector on-site consultation program is fully staffed.

5. *Management Information System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(g), the designee was to have developed and implemented an automated Management Information System within 6 months of plan approval. By a letter dated January 4, 1978, the State announced that its Management Information System had become fully operational on July 1, 1977. Monitoring activities conducted by OSHA have verified the system's completion. The Court reporting system, also included in 29 CFR 1952.373(g), is not approved by this notice.

6. *Merit System Coverage.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(1), Virginia was to bring the positions of Director of the Industry Safety Division and Director of the Construction Safety Division in the Department of Labor and Industry under the State merit system. By a letter dated February 18, 1977, the State announced that the two positions had been under the State merit system as of September 1, 1976. The U.S. Civil Service Commission, by a letter dated March 23, 1977, verified that the State had fulfilled this commitment.

Location of the Plan and Its Supplements for Inspection and Copying

Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3613, 3rd and Constitution Avenue, NW., Washington, D.C. 20210; Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2439, 3rd and Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, Philadelphia, Pennsylvania 19104; and, the Office of the Commissioner, Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

Public Participation

Under § 1952.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Virginia Plan supplements described above are consistent with commitments contained in the approved plan, which was previously made availble for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

Decision

After careful consideration, the Virginia plan supplements outlined above are approved under 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State Plans generally. In addition, Subpart EE of 29 CFR Part 1952 is amended to reflect the completion of six developmental steps by adding a new section as follows:

§ 1952.374 Completed developmental steps.

(a) In accordance with 29 CFR 1952.373(b), Virginia was to develop a plan for delegation of authority to the State Fire Marshal for fire standards enforcement. The State has since announced that the authority for fire standards enforcement will rest with the Department of Labor and Industry, which has been enforcing fire standards since plan approval. This action is judged to have sufficiently fulfilled the commitments of this step.

(b) In accordance with 29 CFR 1952.373(c) and 1952.10. Virginia's safety and health posters for public and private employers were approved by the Assistant Secretary on November 13, 1980.

(c) In accordance with 29 CFR 1952.373(d), Virginia initiated a voluntary compliance program which includes on-site consultation services on March 15, 1977. (The State subsequently arranged for on-site consultation activities for the private sector to be covered by an agreement with the U.S. Department of Labor under Section 7(c)(1) of the Act).

(d) In accordance with 29 CFR 1952.373(f), the State had met its developmental commitment for the staffing of its on-site consultation program in the public sector by fiscal year 1979. On-site consultation in the private sector is covered by a Section 7(c)(1) agreement with the U.S. Department of Labor.

(e) In accordance with the relevant part of 29 CFR 1952.373(g), Virginia met its developmental commitment of developing and implementing an automated Management Information System on July 1, 1977.

(f) In accordance with 29 CFR 1952.373(1), the Directors of the Industry and the Construction Safety Divisions have been placed under the State merit system as of September 1, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36463 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1960

[Docket No. F-002]

Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Final Rule

Correction

In FR Doc. 80-32769, appearing at page 69796, in the issue of Tuesday, October 21, 1980, make the following corrections:

1. On page 69804, § 1960.26(c)(2), first column, in the thirteenth line from the bottom of the page, the reference not reading "paragraph (c)(1)(iii) of this section" should read "paragraph (c)(2)(iii) of this section".

2. On page 69808, second column, the section now reading **"§ 1960.37 Committee formation"** should read, **"§ 1960.38 Committee formation."**

3. On page 69811, § 1960.71, in the second column, paragraph (e), the third line, the word "of" at the end of the line should be removed.

4. On page 69812, § 1960.80, first column, paragraph (a), third line the last word now reading "evaluation" should read "evaluating".

5. In that same section, second column, paragraph (c), second line, the word "and" should read "the".

6. On page 69818, the FR Doc. number in the next to the last line now reading "FR Doc. 80-22769" should read "FR Doc. 80-32769".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Conditional Approval of the Permanent Program Submission From the State of Arkansas Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: On February 19, 1980, the State of Arkansas 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 Arkansas program meets the minimum requirements of SMCRA and the federal permanent program regulations, except for minor deficiencies discussed below under "Secretary's Findings." Accordingly, the Secretary of the Interior has conditionally approved the Arkansas program.

A new Part 30 CFR 904 is being added to 30 CFR Chapter VII to codify this decision.

EFFECTIVE DATE: This conditional approval is effective November 21, 1980. This conditional approval will terminate as specified in 30 CFR 904.11, adopted below, unless the deficienies identified below have been corrected in accordance with 30 CFR 904.11.

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, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone: (202) 343-4225.

ADDRESSES: Copies of the Arkansas program and the administrative record on the Arkansas program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone: (202) 343-4728.

SUPPLEMENTARY INFORMATION:

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 than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures 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 March 13, 1979 (44 FR 15312–15463). Errata Notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509, November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), and September 4, 1980 (45 FR 58780–58786) as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447), August 6, 1980 (45 FR 52306–52324) and August 7, 1980 (45 FR 52375). Portions of these regulations 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).

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 either approve the program; approve it conditioned upon the correction of minor deficiencies in accordance with a specified timetable; or disapprove the program in whole or in part. If 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 federal program has been implemented.

As a result of litigation in the U.S. District Court for the District of Columbia, in which the deadline for states to submit proposed programs was extended from August 3, 1979, 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 be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980). The 104th day following Arkansas' submission was June 2, 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 correct any deficiencies in it.

The Secretary, in reviewing state programs, is utilizing the criteria of Section 503 of SMCRA (30 U.S.C. 1253) and 30 CFR 732.15. In reviewing the Arkansas program, the Secretary has followed the federal rules as 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.*

Because of that litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied 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 SMCRA], 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 judgment. The effect of this stay is to allow the Secretary to approve state 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 (a) 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, to the extent required by the court's judgements, 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 suspended, although the Secretary may have the power to do so under Section 504(g) 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 or remanded regulation.

4. 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.

5. A state program may not contain any provision which is inconsistent with a provision of SMCRA.

6. 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, conditionally approved or disapproved, in whole or part, in accordance with 30 CFR 732.13.

7. 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 the result of the Round I and Round II litigation was published in a previous **Federal Register** notice (45 FR 45604, July 7, 1980). A proposed list of Arkansas provisions incorporating the suspended or remanded federal regulations was published at 45 FR 50820–50823 (July 31, 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 Arkansas will be found in 30 CFR Part 904.

Background on the Arkansas Program Submission

On February 19, 1980, OSM received a proposed regulatory program from the State of Arkansas. The program was submitted by the Arkansas Department of Pollution Control and Ecology (DPCE), the agency designated as the primary regulatory authority under the proposed Arkansas permanent program. Notice of receipt of the submission initiating the program review was published in the February 27, 1980, **Federal Register** (45 FR 12918–12919) and in newspapers of general circulation in Arkansas. The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On March 31, 1980, the regional director held a public review meeting in Little Rock, Arkansas, on the program submission and its completeness. The public comment period on completeness began on February 27, 1980, and closed March 31, 1980.

On April 9, 1980, the regional director published notice in the **Federal Register** announcing that the Arkansas program submission had been determined to be complete (45 FR 24210–24211).

On May 30, 1980, the Arkansas DPCE submitted to OSM numerous revisions to the Arkansas permanent program submission. A number of the revisions were minor in nature such as corrections of typographical errors, incorrect references to section numbers in the Arkansas Act and proposed regulations, dropped lines and other items of clarification. These minor modifications will not be discussed or summarized in this notice. However, the significant modifications to the February 19, 1980, Arkansas program submission are listed below:

Regulations

1. Arkansas modified Section 705.21(b) to provide that the Director of the Arkansas DPCE file his or her appeal in conflict of interest proceedings, in writing, with the OSM Director.

2. Arkansas added language at Section 764.17(a) prohibiting cross-examination of witnesses at hearings on petitions to designate lands unsuitable and required that a transcript be made of all such hearings.

3. Arkansas modified Section 780.15 making mandatory the inclusion of a fugitive dust control plan in a mine permit application.

4. Arkansas revised Sections 784.13 and 784.23 to include references to require specific information for underground mine operation plans.

5. Arkansas added language to Section 784.14 to provide that reclamation plans for underground mining include a description of measures to insure the protection of water quality.

6. Arkansas deleted a provision found at Section 785.17(e) that allowed exceptions based on the size of prime farmland acreage.

7. Arkansas revised the definition of "willful violation" in Section 786.5(b) to include violations of federal laws.

8. Arkansas modified Section 786.11(c) to require that written notification of the filing of a permit application be sent to the United States Environmental Protection Agency and other federal and local governmental agencies as identified by the permit applicant.

9. Arkansas deleted language in Section 786.11(d) regarding the approval of specific portions of a permit application within sixty days.

10. Arkansas added the words "Secretary or the" to Section 786.27(b) requiring a permit applicant, as a condition of the permit, to allow federal inspectors on the applicant's premises.

11. Arkansas modified Section 788.12(a)(1) to specify parameters for determining what changes constitute significant departures in the revision of a mining permit.

12. Arkansas modified Section 807.11 so that objectors to a bond release are not required to seek an adjudicatory hearing until after a decision by the Director.

13. Arkansas modified Section 842.14 to require a response to inspection complaints within fifteen days of receipt.

14. Arkansas modified Section 845.12(a) to provide specific authority to the Director to suspend underground coal mining, without civil penalty, upon a finding of imminent danger to the inhabitants of urbanized areas.

15. Arkansas submitted a new part, "Part 1000 Effective Date," which addresses (a) the effective date of the regulations, (b) the status of Part 850 (Blaster Certification), (c) the status of the Abandoned Mine Reclamation Program and (d) the identification of regulations that have been suspended or remanded as a result of litigation involving OSM's permanent program regulations, together with a statement of the status of such regulations in the Arkansas program.

16. Arkansas added provisions at Part 900 establishing administrative hearing procedures including filing of pleadings, discovery, intervention, award of costs and expenses, including attorneys' fees, and the appointment of presiding officers.

Program Narrative

1. Section 731.14(b). Arkansas added specific provisions of the Arkansas Rules of Civil Procedure (ARCP).

2. Section 731.14(c). Arkansas revised the section-by-section comparison to include Ark. Stat. Ann. Sections 41–2801, 41–2807, 41–901, and 41–1101 that provide for the protection of state employees. Also submitted for inclusion in the section-by-section comparison was information to (a) show that Section 23 of the Arkansas Act is as stringent as Section 516(c) of SMCRA as it pertains to the issuance of cessation orders under conditions of imminent danger to the public, and (b) explain how 761.11(c) and 761.12(f) are consistent with Section 522(e)(3) of SMCRA and 30 CFR Part 761

regarding approval to mine on certain federal, public and private lands.

3. Section 731.14(g)(4). Arkansas provided that the State will notify the regional director whenever a citizen initiates civil action under Section 29 of the Arkansas Act.

4. Section 731.14(i). Arkansas submitted additional position descriptions covering fish and wildlife ecology, hydrology, and civil engineering.

5. Section 731.14(j). Arkansas submitted additional information to document further the adequacy of staff to administer the program.

6. Section 731.14(l). Arkansas submitted a revised budget and indicated that permit fees will be used in funding the permanent program.

Additional Amendments

On July 2, 1980, the Arkansas DPCE submitted to OSM some additional material to its permanent program submission. The material included some minor modifications which will not be summarized in this notice. The significant revisions to the program, as submitted July 2, 1980, are listed below:

1. Section 807.11 (f) and (g). Procedures for public participation in the release of a performance bond.

2. Section 786.11(c). Public notice of filing of permit applications, specifically, the written notification to government agencies.

3. Part 1000 that had been submitted on May 30, 1980 was further revised as follows:

(a) Part 1000 (10)—Section 785.17(a). This regulation is suspended to the extent that it limits the prime farmland exemption from reconstruction requirements to persons with permits issued on mining plans approved prior to August 3, 1977.

(b) Part 1000 (22)—Section 816.103(a)(1). This regulation is suspended to the extent that it does not allow treatment as an alternative to covering coal and acid- or toxic-forming materials.

(c) Part 1000 (30)—Part 779. The term "mine plan area" as it appears in this Part is suspended. The Pollution Control Commission suggested that the term "permit area" be substituted, with the exception of the determination of probable hydrologic consequences that must be measured both on and off the mine site.

4. Section 816.65(e)(2). 100 Hz was revised to 200 Hz for the measurement of frequency responses of airblasts.

5. Section 940.1(a)(2). Criteria for granting temporary relief were added.

6. Section 940.3(b). A procedure was added for expedited review of temporary relief proceedings.

In addition to these program modifications, OSM received on July 2, 1980, a letter from Arkansas DPCE Director Jarrell Southall requesting that the Secretary consider and evaluate the Arkansas regulations which would be fully enacted on July 25, 1980. This letter is discussed below under "Elements Upon Which the Arkansas Program is Being Evaluated for This Decision."

On June 6, 1980, the regional director published notice in the **Federal Register** (45 FR 38088–38090) and in newspapers of general circulation within the State that the revisions to the Arkansas permanent program were available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Arkansas program.

On July 8, 1980, the regional director of OSM and the Director of the Arkansas OPCE held a joint public hearing on the Arkansas submission in Fort Smith, Arkansas. The public comment period on the Arkansas permanent regulatory program ended on July 16, 1980.

On July 18, 1980, the regional director submitted to the Director of OSM his recommendation that the Arkansas program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On July 30, 1980, the Director published notice in the **Federal Register** (45 FR 50616) that the views of federal agencies concerned with or having a special interest in the Arkansas program were available for public review.

On July 31, 1980, the Director announced in the **Federal Register** (50820–50823) the reopening of the public review period on the Arkansas regulatory program to allow public comment on the following: (1) program revisions submitted to OSM on July 2, 1980; (2) DPCE Director Southall's July 2, 1980, letter to OSM requesting that regulations enacted on July 25, 1980 be considered as part of the program submission (discussed below under "Elements Upon Which the Arkansas Program is Being Evaluated For This Decision"); (3) the accuracy of a proposed list of Arkansas' regulations to be affirmatively disapproved pursuant to the U.S. District Court opinion on state provisions comparable to suspended or remanded federal regulations (*See* "General Background on the Permanent Program").

On August 14, 1980, Arkansas also submitted a letter:

(1) requesting that the Secretary approve the civil penalty system described in Section 845.13 of the Arkansas regulations;

(2) explaining that Arkansas Stat. Ann. Section 52–612, which prohibits women from working in underground mines, appears unconstitutional; and

(3) describing a proposed amendment to Section 786.19(h) of the Arkansas Code concerning payment of reclamation fees prior to approval of a permit application.

On August 22, 1980, the Director of OSM, by telegram, asked Arkansas if there were provisions in its program based on suspended or remanded federal rules which the State does *not* want the Secretary to affirmatively disapprove in accordance with the court order. Arkansas has not yet replied, although, as noted above, on August 14, 1980 Arkansas asked that the civil penalty provisions be approved (Administrative Record No. AR–110).

On October 1, 1980, the Administrator of the EPA concurred in the Secretary's approval of those provisions of the Arkansas program relating to air and water quality standards being approved today.

On September 8, 1980, the Director of OSM submitted his recommendation to the Secretary that the Arkansas program be conditionally approved.

Elements Upon Which the Arkansas Program Is Being Evaluated for This Decision

In this section, the Secretary discusses the elements of the proposed Arkansas program upon which the findings and decisions below are being made.

(a) The statutes and program narrative received on February 19, 1980, and the revisions to the program narrative submitted on May 30, 1980, have been evaluated. The revisions were announced to the public on June 6, 1980, prior to the required public hearing, held July 8, 1980, and could have been commented on up to a week after the public hearing as well as at the public hearing.

(b) The regulations fully enacted on July 25, 1980.

On July 2, 1980, Arkansas DPCE Director Jarrell Southall requested that the Arkansas regulations, which would become enacted on July 25, 1980, be evaluated as a part of the program although they had not been enacted by the 104th day after the program was submitted. Director Southall stated he made this request because the public

had full opportunity to comment on the proposed regulations throughout the review process and public comment periods. The Secretary grants the request by Director Southall because:

1. The State of Arkansas did enact its proposed regulations on July 25, 1980. The regulations as fully enacted are identical to the regulations as proposed and submitted to the public for review, with two minor differences.

2. The Secretary solicited public comment regarding Arkansas' request for a waiver of the 104 day rule (FR 50820–50823, July 31, 1980). Therefore, the public was given notice that the proposed, but not fully enacted, regulations may be considered as elements upon which the dicision-making would be based.

3. No public comments were received as a result of the Federal Register notice of July 31, 1980, and the Secretary intepreis this to mean that no members of the public object to the waiver being granted.

4. Adequate time has been provided to the public to comment on the fully enacted regulations of the proposed program. Thus, the Secretary believes that the purpose of the 104 day rule has been fulfilled.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Arkansas has, subject to the exceptions in Finding 1(b), 4(c), 4(h) and 4(p), the capability to carry out the provisions of SMCRA under the Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) and to meet its purposes in the following ways:

(a) The Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) provides for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal land in Arkansas in accordance with SMCRA;

(b) The ASCMRA provides sanctions for violations of Arkansas laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Arkansas DPCE or its inspectors with the following exception: A substantial difference in the penalties exists between those provided in Section 704 of SMCRA and those provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101. Section 704 of SMCRA establishes a fine of not more than $5,000, or imprisonment for not more than one year, or both, for persons interfering with government employees in the performance of duties pursuant to SMCRA. The Arkansas statutes provide for a maximum fine of $100 or $1,000 and a maximum imprisonment of 30 days or one year depending on whether force is used or threatened in the obstruction of governmental functions. The Secretary finds that this deficiency is minor because the history of state and coal industry relations in Arkansas indicates that state employees will not likely be either significantly deterred in performing their duties or subject to violence or harassment during the time this deficiency is being corrected.

(c) The Arkansas DPCE has sufficient administrative and technical personnel and sufficient funds to enable Arkansas to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) The ASCMRA 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 Arkansas;

(e) Arkansas has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Arkansas has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operation;

(g) Arkansas has regulations consistent with regulations issued pursuant to SMCRA, as required by Section 503(a)(7) of SMCRA, 30 U.S.C. 1253, subject to the exceptions discussed in findings 4(c), 4(h) and 4(p).

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(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 Arkansas program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Arkansas program being approved today that relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*), and;

(c) Held a public review meeting in Little Rock, Arkansas, on March 31, 1980, to discuss the completeness of the Arkansas program submission and subsequently held a public hearing in Fort Smith, Arkansas, on July 8, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds that the State of Arkansas has the statutory authority and qualified personnel necessary for enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

(4) In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Arkansas program submission, including the section-by-section comparison of the Arkansas law with SMCRA, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, that:

(a) The Arkansas program provides for Arkansas to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII with the exceptions noted in findings 1(b), 4(c), 4(h) and 4(p), and that Arkansas has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13. This finding is made under 30 CFR 732.15(a).

(b) The Arkansas DPCE has the authority under its laws and regulations to implement, administer and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Arkansas program includes provisions to do so. This finding is made under 30 CFR 732.15(b)(1).

(c) The Arkansas DPCE has, except as noted below, the authority under Arkansas laws and regulations and the Arkansas program includes provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G and to prohibit surface coal mining and reclamation operations that do not have a permit issued by the regulatory authority, except that, in order to comply with 30 CFR 786.19(h), Arkansas must revise its regulation Section 786.19(h) to reference federal law rather than state law regarding proof of payment of all reclamation fees before permit approval. The failure of Arkansas regulation 786.19(h) to accurately require proof of payment of past due federal reclamation fees as a criterion for granting a permit is a minor problem because the language used is identical to 30 CFR 786.19(h), and, by letter of August 8, 1980 (A.R. 170) the ADPCE's

chief counsel committed Arkansas to an interpretation of its Section 786.19(h) consistent with the interest of 30 CFR 786.19(h) until the rule can be formally amended. These provisions are contained in Parts 770–795 of the Arkansas regulations and in Section 13 of the ASCMRA. This finding is made under 30 CFR 732.15(b)(2).

(d) The Arkansas DPCE has authority under Arkansas laws and regulations to regulate coal exploration consistent with 30 CFR Part 776 and 30 CFR Part 815 and to prohibit coal exploration that does not comply with 30 CFR Part 776 and Part 815. This finding is made under 30 CFR 732.15(b)(3).

(e) The Arkansas DPCE has authority under Arkansas laws and regulations to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. This finding is made under 30 CFR 732.15(b)(4).

(f) The Arkansas DPCE has the authority under Arkansas laws and regulations to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Arkansas consistent with Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L. This finding is made under 30 CFR 732.15(b)(5). The Arkansas counterparts to the above provisions are contained in Sections 10, 16, and 17 of ASCMRA and Subchapter L of Arkansas' regulations.

(g) The Arkansas DPCE has the authority under Arkansas laws and regulations to implement, administer, and enforce a system for performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. This finding is made under 30 CFR 732.15(b)(6). The above provisions are at Subchapter J, Parts 800–809 of the Arkansas regulations.

(h) In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Arkansas DPCE has authority under the ASCMRA and ADPCE's regulations to provide for civil and criminal sanctions for violations of the Arkansas law, regulations and conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845 including the same or similar procedural requirements, except as noted below. The provisions are contained in Sections 18, 19, 20, 21, 29, and 30 of the ASCMRA and Part 845 of the Arkansas regulations.

The exception is that there is no constraint on the length of time that will be taken in the process of administrative adjudication of proposed civil penalties under Section 29 of ASCMRA and regulation Section 845.19. Although an operator seeking a hearing must make his request within 30 days of receiving the proposed assessment (Section 845.19(a)) and the hearing officer must render his decision within thirty days after holding a hearing (Section 29(1) of ASCMRA), there is no limit on the time 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.

Arkansas 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 Arkansas the second level of review is judicial review, and Arkansas has a functional equivalent to the escrow requirement in the nature of a required penalty bond plus ten percent per annum interest that must be posted at the time judicial review is requested (Section 30(b) of ASCMRA). The problem is that under its present provisions the second level of review may be unreasonably delayed.

Therefore, the Secretary will require, as a condition of the approval announced today, that Arkansas, by regulation or policy commitment in an amendment to the program submission, place a reasonable limit on the amount of time a hearing officer may take to hold a hearing under Section § 45.19 after one is requested.

The failure by Arkansas to place a limit on the time within which administrative hearings on proposed civil penalties must be held is a minor problem because Arkansas has agreed to promulgate such a limitation by January 1, 1981, which will be accomplished before any unreasonable delay could possibly occur even if a civil penalty hearing were requested very early in the permanent regulatory program.

On August 14, 1980, Arkansas submitted a letter requesting that the Secretary approve the civil penalty point system described in Section 843.13 of the Arkansas regulations. (See Administrative Record No. AR–110). Because of this request, the Secretary does not have to affirmatively disapprove Arkansas' point system in accordance with the district court's August 15, 1980 order. The Secretary finds that the Arkansas point system is consistent with Section 518 of SMCRA and is therefore approved.

(i) The Arkansas DPCE has the authority under Sections 22, 23, 24, and 25 of the ASCMRA and regulations to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(8). These provisions are at Parts 842 and 843 of the Arkansas regulations.

(j) The Arkansas DPCE has the statutory authority under the ASCMRA in Section 26 and regulations to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F. This finding is made under 30 CFR 732.15(b)(9). The above provisions are contained in Parts 760–764 of the Arkansas regulations.

(k) The Arkansas DPCE has authority under the ASCMRA and regulations to provide for public participation in the development, revision and enforcement of Arkansas regulations and its program consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(10). The Secretary further finds that the public has had a meaningful opportunity to participate in the development of the State's program submitted to OSM based on the information in the Administrative Record and the public hearings Arkansas held on the adoption of regulations pursuant to the ASCMRA on April 30, 1979 in Fort Smith, Arkansas; on July 25, 1979 in Fort Smith, Arkansas; on July 26, 1979, in Little Rock, Arkansas; on July 26, 1979, in Camden, Arkansas; and on July 8, 1980, in Fort Smith, Arkansas.

(l) The Arkansas DPCE has authority under the ASCMRA and regulations, and the Arkansas program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Arkansas DPCE consistent with 30 CFR

Part 705. This finding is made under 30 CFR 732.15(b)(11). The above provisions are contained in Part 705 of the Arkansas regulations.

(m) The Arkansas DPCE has authority under the ASCMRA and 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. Arkansas has proposed regulations in Part 850 on training programs for blasters and members of blasting crews and certification programs for blasters. This finding is made under 30 CFR 732.15(b)(12). The Secretary finds that the State is not required to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. Federal regulations have not been promulgated as of this time. However, when OSM issues final rules on this subject, Arkansas will be required to have regulations consistent with them.

(n) The Arkansas DPCE has authority under Section 5 of ASCMRA and regulations to operate a small operator assistance program consistent with 30 CFR Part 795. This finding is made under 30 CFR 732.15(b)(13). The Arkansas regulations on this subject are at Part 795.

(o) The Arkansas DPCE does not have statutory provisions to protect its employees consistent with Section 704 of SMCRA. *See* finding 1(b).

(p) The Arkansas DPCE has authority under Sections 30 and 31 of the ASCMRA and regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L with one exception. This finding is made under 30 CFR 732.15(b)(15). The exception is that Section 940.1(a)(2), as presented to the public during the extended comment period, failed to list one of the three criteria for temporary administrative relief required by Section 525(c) of SMCRA. The requirement that temporary relief can be granted only after a hearing in the locality of the permit area in which all parties were given an opportunity to be heard, was in fact enacted by the Arkansas commission on July 25, 1980, but the program before the public did not reflect that rule. The letter of August 8, 1980, to the Regional Director (AR 170) submitted the correct version of Section 940.1(a)(2) for the first time.

Therefore, the Secretary finds that the program submitted for his review did not comply with Section 525(c)(1) of SMCRA. As a condition of the approval granted today, Arkansas will have to resubmit Section 940.1(a) of its regulations for further public comment and review by the Secretary.

The failure of Arkansas rule 940.1(a) to include as a criterion for temporary relief in enforcement proceedings that a hearing be held in the locality of the permit area and that all parties be given an opportunity to be heard is a minor problem because temporary relief proceedings are not probable within the time it will take to correct the rule and ADPCE's chief legal counsel has committed ADPCE to instructing its hearing officers not to grant or deny temporary relief without having had such a hearing. *See* telephone memo of September 25, 1980 (Administrative Record No. AK–199).

(q) In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Arkansas DPCE has authority under Arkansas laws and the Arkansas 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. This authority is contained in Section 5(b) of ASCMRA.

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the ASCMRA and the ADPCE's regulations and the other laws and regulations of Arkansas do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII. *See* Response to Comments, No. 19.

(s) In accordance with 30 CFR 732.15(d), the Secretary finds that the Arkansas DPCE and other state agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funding 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.

Disposition of Comments

1. The Mine Safety and Health Administration (MSHA) noted that Arkansas has adopted the language of the Secretary's regulation in Section 816.92(b) of its regulations, allowing drainage diversions to be designed to the 100-year, 24-hour precipitation event while MSHA guidelines recommend design to a 100-year, 6-hour precipitation event. The Secretary will not require the State to adopt the MSHA guideline. Since the State's regulation is in compliance with 30 CFR 816.92(b), which is more stringent than the MSHA recommendation and since the Secretary of Labor concurred in the adoption of that rule, adoption of the recommended change is not required.

2. The U.S. Geological Survey (USGS) recommended that Arkansas be made aware of the existing Bureau of Land Management (BLM), USGS, and Office of Surface Mining (OSM) Memorandum of Understanding (MOU) on the management of Federal coal. Arkansas has been provided a copy of the joint MOU.

3. The USGS recommended that Arkansas include in its program procedures for processing proposed mine plans or permits that include Federal lands. Such processing procedures need not be included in the state plan because: (1) in States without a cooperative agreement with the Department of the Interior, the Secretary has sole responsibility for review and approval of permit applications on Federal lands, and (2) in States with a cooperative agreement, the Secretary has joint responsibility with the state. Arkansas' procedures for processing mine plans or permits would be identified in the cooperative agreement if the State chooses to execute such an agreement. Therefore, no change is required.

4. The USGS recommended that Arkansas be apprised of exploration requirements on Federal lands and that a reference to those requirements be included in the permanent program. Exploration responsibilities are explained in the BLM, USGS, and OSM Memorandum of Understanding provided to Arkansas. They do not need to be restated in the program submission because Arkansas will have no jurisdiction on Federal lands unless a cooperative agreement is approved by the Secretary. Therefore, no change is required.

5. The Fish and Wildlife Service (FWS) requested involvement in all pre-application conferences where there are known or potential conflicts with FWS statutory responsibilities. The Secretary believes that Section 786.10(c)(4) of the Arkansas rules adequately provides for FWS involvement in pre-application conferences. (*See* also Sections 731.14(g)(1), (9), and (10) of Arkansas' program narrative.) The FWS and other Federal agencies have additional opportunity to comment on proposed operations once an application is filed under Sections 786.12 and 786.13.

6. The FWS recommended modifications to several forms Arkansas included in the narrative of its program. The modifications were forwarded to Arkansas for consideration; however, the Secretary is not basing his decision on any forms submitted as part of the State program package. Forms will be

discussed with the State as part of the Secretary's monitoring function.

7. The FWS suggested that Section 731.14(g)(3) of the program narrative be modified to include a provision for notifying the FWS of bond releases on areas for which the FWS has statutory responsibilities. The FWS also requested it be invited to participate in the inspection and evaluation of the reclamation work. The Secretary believes that the program narrative complies with the Federal regulations and contains adequate provisions for Federal agencies to be informed of, and to participate in, bond release proceedings. Furthermore, in the circumstance envisioned, FWS would get direct notice under the provisions of Section 807.11 (a) and (d) of the ADPCE regulations.

8. The FWS requested that Section 731.14(g)(4) of the program narrative be revised to include procedures for handling inspection requests from the FWS and other Federal agencies. Neither SMCRA nor the regulations adopted thereunder require that the regulatory authority conduct inspections at the request of Federal agencies other than OSM. The Secretary assumes that if information provided to Arkansas by a Federal agency other than OSM alleges a violation, Arkansas will conduct an inspection, on the same basis as it would for any citizen making such an allegation. If a Federal agency is not satisfied with the State's response, it can inform the Secretary, who can initiate an inspection under Section 521(a)(1) of SMCRA; therefore, no change is required.

9. The FWS and the National Park Service requested that Section 731.14(g)(10) of the program narrative be revised to include language providing for the notification of a permit application to all Federal agencies having statutory responsibilities. The Secretary agreed with this comment and OSM advised the State to revise Section 786.11(c) of the proposed regulations to require the Arkansas DPCE to notify Federal agencies having jurisdiction over or an interest in the area of the proposed operations. The program amendments received on July 2, 1980, revised Section 786.11(c) accordingly. The Secretary believes that the revisions to Section 786.11(c) now fully enacted, make revising the narrative unnecessary because because the regulations have the force of law and are binding on the ADPCE.

10. The FWS recommended that a formal agreement be developed to specify coordination and consultation responsibilities between the Arkansas DPCE and the Arkansas Game and Fish Commission. The FWS is concerned that it may be impracticable for the Game and Fish Commission to respond satisfactorily to demands from the surface mining program for certain services. Arkansas Stat. Ann. 82–1903(c) requires other agencies to assist the Arkansas DPCE only when assistance is "practicable." The Secretary agrees that if the Arkansas DPCE intends to rely upon assistance from other agencies, formal agreements would be appropriate. However, with the possible exception of assistance with the blaster certification program, Arkansas does not plan to rely on assistance from other agencies for the administration of its program. The Secretary cannot require formal agreements unless other state agencies have been identified as having mandatory duties in the state program.

11. The FWS, in its biological opinion pursuant to Section 7 of the Endangered Species Act, found the Arkansas surface mining program, as proposed, unlikely to jeopardize the continued existence of endangered or threatened species, or result in adverse modification or the destruction of critical habitats. In addition to the non-jeopardy opinion, the FWS also commented on the following concerns: (1) the need for revising 30 CFR Chapter VII to provide for consultation between federal agencies pertinent to the protection of species proposed for listing and/or being proposed for critical habitat, (2) a current inability to assess FWS manpower requirements for its participation in the permit reviewing process, and (3) the direction to be taken by OSM to comply with the requirements of 30 CFR Part 733, "Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs." The Secretary finds that while these concerns are important, and has taken them under advisement, they are not comments on whether the Arkansas program complies with the existing standards for the Secretary's approval of state programs. Therefore, they require no response in this rulemaking.

12. The FWS suggested that Arkansas be required to reword Section 786.11 of the proposed state regulations, as amended, to delete the reference to Section 783.20. The FWS contended that Arkansas Section 783.20 is analogous to 30 CFR 779.20 which was remanded by the U.S. District Court for the District of Columbia and which, therefore, would have to be disapproved by the Secretary (*See* court opinion, February 26, 1980, pp. 38–39). The FWS suggested that deletion of the reference to Arkansas Section 783.20 would avoid a possible reference to a disapproved rule. While this comment may have merit, the Secretary is not requiring states to delete references to suspended or remanded regulations. The decision to make such revisions will be left to the State's discretion.

13. The National Park Service (NPS) requested that Sections 731.14(g)(9) and (10) of the program narrative be revised to include a procedure for the Arkansas DPCE to notify the appropriate NPS regional director before a decision is made to approve or deny exploration or mining and reclamation permits in areas that may have the potential to affect the resources of national park units in Arkansas. The Secretary's regulations do not require notice of exploration operations that will remove less than 250 tons of coal. However, 30 CFR 776.12(b) requires a general public notice of exploration proposals that would remove more than 250 tons, and any person with an interest that might be adversely affected, including the NPS, is free to comment. Therefore, while the Secretary urges Arkansas to cooperate with the NPS by directly notifying it of exploration activities near NPS jurisdictional units, he will not require the Arkansas DPCE to do so under the federal regulations.

14. The NPS requested the opportunity to (1) be involved in setting bond amounts for surface mining and reclamation activities that may have an impact on NPS units, (2) be allowed to participate in inspections prior to the release of those bonds, and (3) be allowed to participate in inspections conducted in response to a petition or notice of violation that may affect an NPS unit. The Secretary believes that Arkansas' regulations are consistent with 30 CFR 780.18(b)(2), 800.13 and 805.11 and with Section 509 of SMCRA concerning the determination of the performance bond amount. The NPS and other federal agencies, like private citizens, have the right to comment on proposed mining operations including the proper amount of bond. (*See* Arkansas Sections 786.12, 786.13, and 786.14.) Under the Secretary's regulations in 30 CFR Parts 805 and 806, which have been adopted by Arkansas, the State will have authority to set the terms and amounts of the performance bond on non-federal and non-Indian lands. Federal agencies also have an opportunity to comment on proposed bond releases for areas for which they may have a concern under Part 807 of the Arkansas regulations. However, OSM advised the Arkansas DPCE to

amend proposed Section 807.11 to clarify the rights of those who object to bond releases (*See* letter of April 18, 1980, Administrative Record No. AK–92). Program revisions received May 30 and July 2, 1980, have revised Part 807 to accommodate NPS's concerns about bond releases.

15. The NPS requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in the protection of all resources on lands under its jurisdiction from mining in adjacent areas. Arkansas' regulation Section 762.11 identifying the criteria for developing lands as unsuitable, is consistent with 30 CFR 762.11. The petition process included in Arkansas' regulation 764.13 would provide the opportunity for any person having an interest that is or may be adversely affected to petition to have an area designated as unsuitable for mining. This approach provides the NPS with the opportunity it seeks to protect lands in the National Park System. 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 Mangement 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.

16. The NPS and the Bureau of Mines commented that the Arkansas regulations did not include a section comparable to 30 CFR Part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands. 30 CFR Part 740 provides rules for OSM to administer a federal lands program for federal lands, and does not directly apply to a state. Section 5(c)(15) of the Arkansas Surface Coal Mining and Reclamation Act of 1979 contains authority for the State to enter into a cooperative agreement with the Secretary enabling the State to regulate surface coal mining on federal lands. Arkansas has not enacted regulations for a federal lands cooperative agreement because it does not anticipate that surface mining operations will be conducted on federal lands within Arkansas in the near future.

17. The NPS commented that the environmental information should be consolidated into a special section of the final program document emphasizing Arkansas' environmental requirements and documentation procedures. The Secretary's regulations do not require this revision. Therefore, no change is necessary.

18. The NPS noted that the applicable air quality portions of the Arkansas Water and Air Pollution Control Act should be included in the program. The air quality portion of the Arkansas Water and Air Pollution Control Act is included in Section 731.14(b) of the program narrative.

19. The Bureau of Mines (BOM) commented that Sections 52–612 and 52–625 of the Arkansas statutes are discriminatory and in violation of federal law. Section 52–612 prohibits females from working in coal mines and Section 52–625 requires separate bath houses for blacks and whites. The Secretary agrees that such laws probably violate the federal constitution. On August 14, 1980, OSM received an opinion of the chief legal counsel of the ADPCE explaining that Section 52–625 of the Arkansas statutes was repealed by 1973 Arkansas Acts No. 253 Section 5, and that Arkansas Section 52–612 is unconstitutional (*see* Administrative Record Document No. AK–170). The Secretary believes that the opinion received from Arkansas satisfactorily resolves these issues and that no change is necessary to the proposed program. Even if Section 52–612 were enforced, it would not directly interfere with the implementation of SMCRA. Although it was submitted with other laws in the program package to comply with 30 CFR 731.14(b), the Secretary believes that it is not a law "directly affecting the regulation of coal exploration and surface coal mining and reclamation operations" and that it is not part of the program upon which today's decision is based.

20. The BOM requested clarification of a time schedule of permit reviews as shown on a flowchart on page 204 of Volume 1. The Secretary finds that the review process will require a minimum of 90 days and a maximum of 270 days, based on the regulations in Part 786. The Secretary's decision today is not based on the accuracy of the diagram on p. 204 of the program narrative.

21. The BOM and the Department of Energy commented that Section 731.14(g)(13) of the program narrative pertaining to the content of the proposed training criteria for use in training, examining, and certifying blasters was incomplete. These comments pertain to a part of the Arkansas program that is not required until six months after the federal regulations on training, examining, and certifying blasters are promulgated. The federal regulations have not yet been promulgated (*See* 30 CFR 732.15(b)(12)). The narrative provided by the Arkansas Department of Pollution Control and Ecology is used only as a guideline for inspectors and course development and does not impose training or safety requirements on operators. Upon adoption of federal regulations Arkansas will be required to adopt regulations consistent with those regulations.

22. The BOM expressed concern that there is no requirement to allow exploration or underground mines in Arkansas. Arkansas' proposed regulations governing such activities have been included in the program submission at Parts 782–784 for underground mining and Part 776 for exploration activities. The Secretary finds that those regulations comply with SMCRA and 30 CFR Chapter VII.

23. The BOM made several comments on the statistical information presented in Section 731.14(h) of the program narrative, specifically information related to projections and trends in mining production and a possible discrepancy in tonnage when compared to past mining production. Inasmuch as the tonnage identified in Section 731.14(h)(8) is a projection only, the Secretary is satisfied that the statistical information as presented is adequate to meet the requirements of 30 CFR 731.14(h).

24. The BOM commented that Arkansas did not include regulations equivalent to 30 CFR 760.3, 760.4, 764.11, 765 and 769. The Secretary has determined that state programs do not need provisions comparable to 30 CFR parts 760, 765 and 769 because these parts are not applicable to a state program submission. 30 CFR 764.11 requires a state to establish a process for designating lands unsuitable for mining. Arkansas' regulations Part 764 establish such a process, which is further described in Section 731.14(g)(11) of the program narrative.

25. The BOM commented that Arkansas did not include regulations comparable to 30 CFR 810.3, 820, 822 and

825, and that Arkansas combined 30 CFR Parts 816 and 817 of the federal rules into Part 816 of its rules and added Sections 816.121, 816.122, 816.124, and 816.126 addressing underground mining. The Secretary finds that the Arkansas program does not need to include regulations equivalent to 30 CFR 810.3, 820, 822 and 825, because 30 CFR 810.3 applies to the Secretary and 30 CFR Parts 820, 822 and 825 cover special performance standards not necessary in Arkansas (anthracite mines in Pennsylvania, alluvial valley floors west of the 100th meridian and special bituminous coal mines in Wyoming, respectively). The Secretary finds that in its regulations, Arkansas has acceptably combined those regulations that apply to both surface and underground mining. It was, however, necessary to add Sections 816.121–816.126 to cover standards unique to underground mining. Therefore, no changes are necessary.

26. The BOM commented that Section 816.74 refers to a safety factor of 1.1 for earthquake conditions and suggested that the factor may be low for fill embankments. The Secretary finds the Arkansas regulation is equivalent to 30 CFR 816.74 and the State cannot be required to adopt a more stringent regulation.

27. The BOM noted that the Arkansas Statute (ASCMRA) does not have provisions comparable to Sections 502(e), 502(f), 503, 504, 505, 507(b)(7)–(17), 507(c)–(g), 508(a)(6)–(14), 508(b), 510(b)(5), 510(c), 510(d), 515(b)(3) (a portion of), 515(b)(4)–(25), 515(c), 515(d), 515(e), 516(b)(5)–(10), 516(c), 516(d), and 529 of SMCRA. The Secretary finds that Arkansas is not required to include provisions equivalent to those Sections of SMCRA for the following reasons: (1) Section 502(e) provides the authority for a federal enforcement program during the interim period, not a permanent program which is the subject here; (2) Section 502(f) addresses the interim period between the disapproval of a state program and the implementation of a federal program or a federal lands program and is inapplicable once a state program is approved; (3) Section 503 describes the submission of state programs, an activity which occurs at the federal level only; (4) Section 504 provides the authority for implementing a federal program which applies only to the Secretary; (5) Section 505 prohibits state laws or regulations that are inconsistent with the provisions of SMCRA or regulations issued pursuant thereto; that law will be implemented by the Secretary's decision today; (6) the provisions of Sections 507(b)(7)–(17) and 507(c)–(g) are adequately covered by Arkansas' regulations in Sections 778.13, 778.14, 778.21, 780.11, 778.15, 778.17, 779.16, 779.18, 779.25, 779.14, 786.15 and 779.27(d); (7) the provisions of Section 508(a)(6)–(14) and 508(b) concerning reclamation plan requirements are covered by Arkansas' regulations in Sections 779.22, 780.23, 780.18, 780.21, 780.13, 780.14 and 786.16; (8) Section 510(b)(5) is applicable only to areas west of the 100th meridian west longitude, whereas Arkansas is east of the 100th meridian; (9) Sections 510(c) and 510(d) are covered by Section 28 of the Arkansas Act; (10) the Secretary finds that it is not necessary for the Arkansas statute to have provisions comparable to the omitted portions of Section 515 of SMCRA as long as the performance standards are covered by enforceable regulations promulgated pursuant to general statutory authority; (11) similarly, the provisions of Section 516 are covered by Arkansas' regulations Part 816; and (12) the Secretary finds that Arkansas does not need a provision comparable to Section 529 because it did not have a law in existence prior to August 3, 1977, that established environmental protection standards for anthracite surface coal mining.

28. The Advisory Council on Historic Preservation (ACHP) sought additional information to determine the extent that Arkansas' proposed regulatory program is in compliance with Section 106 of the National Historic Preservation Act (NHPA). The information requested concerns the requirement of NHPA for written comments from the State Historic Preservation Officer (SHPO) and an independent determination by OSM's regional director as to the likelihood that the state program will adversely affect properties included, or eligible for inclusion, on the National Register of Historic Places. The Secretary believes that the proposed Programmatic Memorandum of Agreement between OSM and ACHP (*See* 45 FR 41988, June 23, 1980) when signed and implemented will satisfy compliance with Section 106 of NHPA.

29. The ACHP and the Heritage Conservation and Recreation Service (HCRS) expressed concern that historic, archaeological, and other cultural resources could be destroyed or lost unless steps in the permitting process are taken to ensure adequately the identification of such resources. The Secretary believes that the Arkansas rules provide all the consideration of historic, archaeological and other cultural resources currently required by the federal rules in 30 CFR Chapter VII.

30. The Environmental Protection Agency (EPA) suggested that surface mining control programs, including the Arkansas program, should require all mines to quantify all emissions, including fugitive dust particulates, that are associated with their operations and to make the information readily accessible for input into Prevention of Significant Deterioration (PSD) air quality models. To avoid conflict with the Clean Air Act program for prevention of significant deterioration and protection of non-attainment areas, the Secretary has decided not to require separate demonstrations of compliance with those clean air programs beyond the requirements of Sections 508(a)(9) and 515(b)(4) of SMCRA. Arkansas' proposed regulations were not originally consistent with 30 CFR 780.15 because the fugitive dust control plan was not made mandatory. That problem has been corrected under the revisions received from the Arkansas DPCE on May 30, 1980. The regulations, now fully enacted, are also consistent with 30 CFR 816.95, but Section 816.95 must be affirmatively disapproved to the extent indicated below under "Arkansas Regulations That Must Be Disapproved" to comply with the May 16, 1980, opinion of the U.S. District Court for the District of Columbia (pp. 27–29).

31. The EPA commented on the lack of enforceable conditions in the sample permit in Section 731.14(g)(1) of the program narrative to ensure that the conditions of the permit are met, particularly with respect to the control of discharge to surface waters. The comment was forwarded to Arkansas for consideration. However, the Secretary is not basing any part of his approval decision on forms submitted with a state program document. Forms will be discussed with Arkansas as part of the Secretary's monitoring function during the permanent program.

32. The EPA and the Department of Energy commented that the narrative description of the means of administering and enforcing the permanent program performance standards required by 30 CFR 731.14(g)(6) had been omitted. Arkansas addresses the various aspects of administering and enforcing the permanent program performance standards in Sections 731.14(g)(1), 731.14(g)(4), and 731.14(g)(5) of the program narrative. The Secretary has determined that inclusion of the same material in Section 731.14(g)(6) is not necessary.

33. The EPA and the Soil Conservation Service (SCS) suggested that in developing criteria for

designating lands unsuitable for surface mining, consideration be given to the President's Executive Orders 11900 (Wetland Protection) and 11988 (Flood Plain Management). Arkansas' regulation Section 762.11(b)(2), which is consistent with 30 CFR 762.11(b)(2), states that upon petition an area may be designated as unsuitable for certain types of surface coal mining operations if the operation will affect fragile lands and could result in significant damage to important natural systems. The Secretary believes the State is not obligated to comply with E.O. 11900 and 11988, but encourages Arkansas and other states to consider applying the criteria of those orders when reviewing operations that may affect wetlands or floodplains.

34. The EPA commented that the Arkansas scheme for determining the amount of the civil penalty to be assessed would potentially result in more lenient penalties than the federal regulations. The U.S. District Court for the District of Columbia in its decision of February 26, 1980, and in its subsequent clarification of May 26, 1980, found that the Secretary may not require the state to impose penalties as stringent as those in 30 CFR 845.15. Therefore, the Secretary cannot require changes to the Arkansas civil penalty system as long as the state scheme uses the four criteria in Section 518(a) of SMCRA. The Arkansas regulations use those criteria.

35. The Department of Energy (DOE) commented that the cost of reviewing permit applications should be specifically addressed in the submission. Arkansas' regulation Section 771.25 requires a $500 fee for a permit review. Section 507(a) of SMCRA and 30 CFR 771.25 require a permit review fee that can be less than, but may not exceed, the actual cost of reviewing a permit application. The Secretary finds that a $500 fee will be less than the actual cost for adequately reviewing a permit. Therefore, no change is required.

36. The DOE commented that Section 731.14(g)(11) of the program narrative concerning the designation of lands as unsuitable for mining should be addressed in more detail. The Secretary believes that the program narrative, although brief, is sufficient to comply with 30 CFR 731.14(g)(11).

37. The DOE commented that the submission should make explicit the penalties associated with the willful violation of the conflict of interest provision. The Secretary finds that specific criminal penalties are authorized under Section 17(a) of the Arkansas Act and that specific regulatory penalties are imposed under authority of Section 705.6(b) of Arkansas' regulations.

38. The DOE commented on Section 731.14(h)(8) of the program narrative regarding the absence in the coal production data of a distinction between surface and underground mining activities. Arkansas projects in Section 731.14(h)(8) of its program narrative that, unless there is an increase in underground operations, the trend of surface mining activities, as currently established, will hold true for some time into the future. Arkansas does provide a map, referenced in Section 731.14(h)(8) and found at 731.14(h)(4) of the program narrative, that identifies existing surface and underground mining activities. The Secretary believes that the information contained in the narrative is sufficient and does not require change.

39. The DOE commented on Sections 731.14 (i) and (j) of the program narrative pertaining to staffing requirements. The commenter suggested that a biologist, ecologist, hydrologist, and a wildlife management specialist be added to the staff and that the State explain how calculations determining adequate staffing and allocation of staff time were made. In revisions to the program submitted May 30, 1980, the Department of Pollution Control and Ecology revised Section 731.14(j) of the program narrative to demonstrate that the Arkansas DPCE will have adequate staff to administer the program, including the staff identified by the commeter.

40. The DOE commented on Section 731.14(l) of the program narrative relative to the budget. The commenter felt that the information submitted did not adequately explain the cost of administering the permanent program, not did it include sufficient fiscal information relating to the Department of Pollution Control and Ecology. On May 30, 1980, the Department of Pollution Control and Ecology revised this part of the program narrative and submitted new budget information. The Secretary believes that the budget information submitted is consistent with the requirement of 30 CFR 731.14(l).

41. The DOE commented on Section 731.14(m) of the program narrative regarding physical reources, suggesting that additional detail be incorporated into the section. On May 30, 1980, the Department of Pollution Control and Ecology submitted revisions to this part of the program narrative including additional information pertinent to physical resources. The Secretary believes that the physical resources information is consistent with the requirement of 30 CFR 731.14(m).

42. The Soil Conservation Service (SCS) suggested that Arkansas provide other government agencies the opportunity to review notices of intent to explore on Federal lands in the same manner as permit applications are reviewed. The commenter stated that the Forest Service would need this information before permits could be issued on national Forest lands. Arkansas has not made provisions for a Federal lands cooperative agreement in its permanent program submission because it does not anticipate that surface mining operations will be conducted on Federal lands within Arkansas in the near future, and thus will not be processing notices to explore within the boundaries of a national forest. Arkansas does have authority under its Act to administer a Federal lands program in the State if such a program becomes necessary in the future. Therefore, no change is required.

43. The SCS suggested the addition of designated wilderness areas to either Section 779.24(i) or Section 779.24(k) of Arkansas' proposed regulations. The additions would require that maps included with permit applications identify wilderness areas. Arkansas' regulations 779.24(i) and 779.24(k), are consistent with 30 CFR 779.24 (i) and (k) and the Secretary cannot require the State to adopt additional criteria.

44. The SCS suggested additional language be added to Arkansas' proposed regulation Section 780.15 to require an air quality monitoring program if the map required under proposed Section 779.24(k) shows an area with Class I air quality. Such a regulation is not mandatory for States east of the 100th meridian, such as Arkansas, under 30 CFR 780.15. If there is a need for more specific air quality data, the Director of the DPCE can require it under Section 779.18. Therefore, no change is required.

45. The SCS suggested that Arkansas' proposed regulation Section 780.18(b)(5) be revised to require measures, such as fencing, be taken to protect newly revegetated areas. The Secretary believes that Sections 816.111 through 816.117 would provide adequate controls to assure the prompt establishment of an effective and permanent vegetation cover. A permittee is not relieved of the responsibility to use whatever methods are necessary, including fencing, to achieve successful revegetation of the disturbed area.

46. The SCS suggested that the Forest Service will need to review and approve a completed application before it can issue a special use permit for surface use on national forest land. Arkansas has not made provisions for a Federal

lands cooperative agreement in its program submission. Therefore Arkansas will not be processing any applications for surface coal mining on Federal land within a national forest boundary. *See* response to comment number 42 above.

47. The SCS suggested that Arkansas should add requirements to give detailed descriptions of post mining use or obliteration of transportation facilities. Arkansas' regulations Sections 816.156, .166, and .176 track the language of 30 CFR 816.156, .166, and .176. Therefore, Arkansas' rules are consistent with the Secretary's regulations.

48. The SCS felt that Class I road grade in excess of eight percent will result in excessive erosion and surface stability problems unless the road surface and ditches are paved. Arkansas' regulation Section 816.152(a) is consistent with the Secretary's regulations. It should be noted, however, that as a result of the district court's May 16, 1980 decision, 30 CFR 816.152 has been remanded. The parallel Arkansas regulation will have to be affirmatively disapproved.

49. The SCS proposed amending 30 CFR Chapter VII to include a new Section 30 CFR 780.28 entitled "Reclamation Plan: Reclamation Research and Demonstration of Reclamation Technology." The Director of OSM could consider the proposed rule change if it is submitted pursuant to 30 CFR 700.12. No change is required now, nor does this comment affect the Secretary's decision on the Arkansas program at this time.

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the secretary to assist the States in becoming the primary regulators under the Act. To enable the States to acheive that primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors association and the western Interstate Energy Board. Through these groups OSM has frequently met with State regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them. Alternative State regulatory options, the "State window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (*see* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program. Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface coal mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorney general's opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist, not excuse, states from achieving compliance with SMCRA.

Conditional Approval

As indicated above under Secretary's findings 1(b), 4(c), 4(h) and 4(p), there are four minor deficiencies in the Arkansas program which the Secretary requires to be corrected. In all other respects, the Arkansas program (excluding those provisions that must be disapproved to comply with the order of the U.S. District Court for the District of Columbia, May 16, 1980) meets the criteria for approval.

The deficiencies are:

1. As indicated in finding 1(b), the substantial difference in penalties for persons interfering with ADPCE employees in the performance of duties as provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101, compared to the penalties of Section 704 of SMCRA.

2. As indicated in finding 4(c) the need for Arkansas to revise regulation Section 786.19(h) to reference federal law rather than state law regarding proof of payment of all reclamation fees before permit approval pursuant to 30 CFR 786.19(h).

3. As indicated in finding 4(h), the need for Arkansas, by regulation or policy commitment in a program amendment, to place a limit on the time within which adjudicatory hearings on proposed civil penalties will be held.

4. As indicated in finding 4(p), the need for the Arkansas regulations, Section 940.1(a), to provide all the criteria for temporary relief during administrative review consistent with Section 525(c) of SMCRA.

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the Arkansas program, the Secretary has concluded they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i), because:

1. The deficiencies are of such a size and nature as to render no part of the Arkansas program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental protection performance standards at coal mining operations;

2. Arkansas has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Arkansas has agreed, by letters dated October 2, 1980 and October 23, 1980, to correct deficiency number 1 by April 15, 1981, and deficiencies 2, 3 and 4 by January 1, 1981.

Accordingly, the Secretary is conditionally approving the Arkansas program. This approval shall terminate if regulations or policy commitments correcting deficiencies 2, 3 and 4 are not enacted and submitted by January 1, 1981 and if state legislation correcting deficiency number 1 is not enacted and submitted by April 15, 1981.

This conditional approval is effective November 21, 1980. Beginning on that date, the Arkansas Department of Pollution Control and Ecology shall be deemed the regulatory authority in Arkansas and all Arkansas surface coal mining and reclamation operations on non-federal lands and all coal exploration on non-federal lands in Arkansas shall be subject to the permanent regulatory program.

On non-federal lands in Arkansas, the permanent regulatory program consists of the state program conditionally approved by the Secretary.

On federal lands, the permanent regulatory program consists of the federal rules made applicable under 30 CFR Chapter VII, Subchapter D, Parts 740–745. Arkansas and the Department of Interior may enter into a cooperative agreement to apply the requirements of the approved Arkansas permanent regulatory program to federal lands under 30 CFR Part 745.

The Secretary's approval of the Arkansas program relates at this time only to the permanent regulatory program under Title V of SMCRA.

The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Arkansas may submit a State Reclamation Plan now that its permanent program has been conditionally approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement need be prepared on this conditional approval.

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 on this approval.

Dated: November 14, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

Part 904 is added to Title 30 of the Code of Federal Regulations to read as follows:

PART 904—ARKANSAS

Sec.

904.1 Scope.
904.10 State regulatory program approval.
904.11 Conditions of State program approval.

Authority: Pub. L. 95–87, 30 U.S.C. 1253.

§ 904.1 Scope.

This part contains all rules applicable only within Arkansas which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 904.10 State regulatory program approval.

(a) The Arkansas program as submitted on February 18, 1980 and amended on May 29, 1980 and July 2, 1980 and clarified on July 29, 1980, August 8, 1980, August 14, 1980 and August 29, 1980, is conditionally approved, effective November 21, 1980. Copies of the approved program together with copies of the letter from the Arkansas Department of Pollution Control and Ecology agreeing to the conditions of 30 CFR 904.11 are available at:

1. Office of Surface Mining Reclamation and Enforcement, Region IV, Fifth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; telephone: (816) 374–2193.
2. Arkansas Department of Pollution Control and Ecology, Mining Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219; telephone: (501) 371–2130.
3. Office of Surface Mining Reclamation and Enforcement, Room 153, Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; telephone: (202) 343–4728.

(b) *Arkansas Regulations That Must Be Disapproved:* In accordance with the May 16 and August 15, 1980 decisions of the U.S. District Court for the District of Columbia *In Re:* Permanent Surface Mining Regulation Litigation, Civil Action No. 79–1144, the Secretary hereby affirmatively disapproves the following Arkansas regulations to the extent indicated:

(1) Section 701.5. The definition of "mine plan area," and the use of the term in sections 779, 780, 783 and 784,

regarding requirements of information outside the permit area.

(2) Section 701.11(c) (i) and (ii), relating to exemptions for existing structures to the extent that the exemptions are not mandatory after the appropriate findings are made.

(3) Section 761.5. The definition of "public road."

(4) Section 761.5(a)(2)(i). The definition of "valid existing rights" to the extent it does not allow recognition of such rights an operator may claim by having made a good faith effort to obtain all permits before August 31, 1977.

(5) Sections 761.11(c) and 761.12(f)(1) 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 § 761.12(f)(1). Further, both rules to the extent that they apply to privately owned places listed on the National Register of Historic Places in addition to publicly owned places.

(6) Sections 776.11(b) (3) and (5), relating to the requirements for maps of proposed exploration areas and a showing of the legal basis for entering exploration areas when the surface is owned by a person other than the operator, for lack of statutory authority.

(7) Sections 779.20 and 780.16, requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

(8) Section 779.21 to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

(9) Section 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" and where no removal of overburden down to the level of the coal seam will occur.

(10) Section 779.25 (c), (h) and (i) to the extent applicable to underground mining permit applications concerning coal seam and overburden description, location of existing and previously mined areas, and location of waste disposal and impoundments.

(11) Section 785.17(a) concerning the prime farmland grandfather clause, pending OSM's promulgation of new requirements.

(12) Sections 785.17(b)(3) and 823.14(c) concerning excessive soil compaction, pending OSM's promulgation of a standard for soil compaction.

(13) Section 785.17(b)(8) to the extent that it requires 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.

(14) Section 786.5(b) to the extent that "or has not been" is part of the definition of "irreparable damage to the environment."

(15) Section 805.13(d) to the extent that the regulatory authority could grant an exception from the revegetation requirements of Part 816.

(16) Sections 806.12(e)(6)(iii) and 806.12(g)(7)(iii) to the extent they require cessation of operations upon the insolvency of a surety.

(17) Section 808.12(c) to the extent that it limits bond liability to protection of the hydrologic balance.

(18) Section 808.14(b) to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

(19) Sections 816.42(a)(1) and (7) to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

(20) Section 816.42(b) relating to effluent standard exemptions during major storm periods, pending OSM's promulgation of new storm exemption regulations.

(21) Section 816.46(b) concerning sediment storage volume in sediment ponds.

(22) Section 816.46(c) concerning detention time for water in sediment ponds.

(23) Section 816.46(d) to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

(24) Section 816.46(h) concerning sediment removal from sediment ponds.

(25) Section 816.65(f) requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities to the extent it restricts blasting at distances greater than 300 feet.

(26) Section 816.83(a) concerning coal processing waste banks, to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

(27) Section 816.95 concerning air resources protection to the extent it applies to air pollution not caused by erosion.

(28) Section 816.103(a)(1) to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

(29) Section 816.115 to the extent it requires 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.

(30) Sections 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.

(31) Section 816.116(b), to the extent it states that the period of responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

(32) Section 816.133(b)(1) to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

(33) Sections 816.133 (c)(4) and (c)(9) to the extent they require an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

(34) Section 701.5. The definition of "roads" and its use in Sections 816.150–176.

(35) Sections 816.150–176 concerning performance standards for three classes of roads.

(36) Section 816.52(a)(1), as it applies to underground mining, to the extent that it requires monitoring to determine the effects of underground mining activities on the recharge capacity of reclaimed lands.

(37) Section 816.54, to the extent it applies to underground mining.

(38) Sections 816.101(b)(1) and 816.102, as they apply to underground mining, to the extent that there is no provision for some flexibility from AOC requirements for settled, stablized, and revegetated fills at underground mines.

(39) Part 823 concerning underground mining operations on prime farmland to the extent it does not have an exemption for surface facilities actively used over extended periods, but which affect minimal amounts of land.

§ 904.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in § 904.10 will terminate on April 15, 1981 unless Arkansas submits to the Secretary, by that date, copies of fully enacted program provisions that are as stringent as those in Section 704 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), relative to providing protection to employees of the Department of Pollution Control and Ecology performing their duties, or

otherwise amends its program to accomplish the same result;

(b) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in 30 CFR 786.19(h) relating to proof of payment of all reclamation fees prior to permit approval;

(c) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in 30 CFR 845.18 relative to the time limitations placed on conducting adjudicatory hearings on proposed civil penalties, or otherwise amends its program to accomplish the same result;

(d) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in Section 525(c) of SMCRA, relative to identifying the criteria for temporary relief during administrative review.

[FR Doc. 80-36549 Filed 11-20-80; 8:45]
BILLING CODE 4310-05-M

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30 CFR Part 925

Conditional Approval of the Permanent Program Submission From the State of Missouri Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: On February 1, 1980, the State of Missouri 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 government 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 Missouri program meets the minimum requirements of SMCRA and the federal permanent program regulations, except for the deficiencies discussed below under "Secretary's Findings." Accordingly, the Secretary of the Interior has conditionally approved the Missouri program. A new Part 30 CFR 925 is being added to 30 CFR Chapter VII to codify this decision.

EFFECTIVE DATE: This conditional approval is effective November 21, 1980. This conditional approval will terminate as specified in 30 CFR 925.11, adopted below, unless the deficiencies identified below have been corrected in accordance with 30 CFR 925.11.

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 Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-4225

ADDRESSES: Copies of the Missouri program and the administrative record on the Missouri program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106
Missouri Land Reclamation Commission, 1026-D, NE., Drive, Jefferson City, Missouri 65101
Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue NW., Washington, DC 20240 Telephone: (202) 343-4728

SUPPLEMENTARY INFORMATION:

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 that received state permits on or after that date, and 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 and 795, 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 than the federal government, will be the primary regulator of activities subject to SMCRA. The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs 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 March 13, 1979 (44 FR 15312-15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673-49687), September 14, 1979 (44 FR 53507-53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969) and September 4, 1980 (45 FR 58780-58786), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302-75303), December 31, 1979 (44 FR 77440-77447), January 11, 1980 (45 FR 2626-2629), April 16, 1980 (45 FR 25998-26001), May 20, 1980 (45 FR 33926-33927), June 10, 1980 (45 FR 39446-39447), August 6, 1980 (45 FR 52306-52324) and August 7, 1980 (45 FR 52375). Portions of these regulations 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).

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, an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may either 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 change to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also diasapproved, 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 federal program has been implemented.

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) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would 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 Section 732.13 (45 FR 33927, May 20, 1980).

The Missouri program was submitted to OSM on February 1, 1980. The 104th day after February 1 was May 15, 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 opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is utilizing the criteria of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Missouri program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.*

Because of that litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied 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 SMCRA), 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 state 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 standard 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, to the extent required by the court's judgments, 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 suspended, although the Secretary may have the power to do so under Section 504(g) 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.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. 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.

7. 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 the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604).

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 Missouri will be found in 30 CFR Part 925.

Background on the Missouri Program Submission

On February 1, 1980, OSM received a proposed regulatory program from the State of Missouri. The program was

submitted by the Missouri Land Reclamation Commission, the agency designated as the primary regulatory authority under the Missouri permanent program. Notice of receipt of the submission initiating the program review was published in the February 11, 1980, **Federal Register** (45 FR 9123–9124) and in newspapers of general circulation in Missouri. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On March 13, 1980, the Regional Director held a public review meeting in Jefferson City, Missouri, on the program submission and its completeness. The public comment period on completeness began on February 11, 1980, and closed March 13, 1980.

On March 24, 1980, the Regional Director published notice in the **Federal Register** announcing that the program submission had been determined to be complete (45 FR 18987).

Amendments to the Missouri Program

On May 14, 1980, the Missouri Land Reclamation Commission submitted to OSM numerous revisions to the Missouri permanent program submission.

On May 23, 1980, the Regional Director published notice in the **Federal Register** (45 FR 34907–34909), and in newspapers of general circulation within the State, that the revisions to the Missouri program submission were available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Missouri program.

On June 23, 1980, the Regional Director held a public hearing on the Missouri submission in Kansas City, Missouri. The public comment period on the Missouri permanent regulatory program ended on July 1, 1980.

On July 1, 1980, OSM received a letter dated June 30, 1980, from the Director of the Missouri Land Reclamation Commission indicating that Missouri could not adequately implement and administer the permanent program until October 1, 1980. Missouri cited the need to train staff and prepare for implementation of the permitting process. The letter indicated that Missouri woud be prepared to administer the permanent program by October 1, 1980.

On July 7, 1980, OSM received a document dated July 3, 1980, from the Director of the Missouri Land Reclamation Commission requesting that the Secretary approve certain program provisions proposed to be affirmatively disapproved pursuant to the U.S. District Court opinion on state program provisions comparable to remanded or suspended federal regulations discussed above under "General Background on the State Program Approval Process." *See* Administrative record number MO–146. This request was subsequently withdrawn as discussed in the fourth paragraph below.

On July 16, 1980 (45 FR 47713–47715), the Director published in the **Federal Register** a proposed list of the Missouri regulations to be affirmatively disapproved because they are comparable to federal rules suspended or remanded by the district court. The public was invited to comment on the completeness of the list. Comment was also invited on both the June 30th and July 3rd letters received from the Missouri Land Reclamation Commission, described above.

On July 7, 1980, the Regional Director submitted his recommendation to the Director of OSM that the Missouri program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On July 16, 1980, the Secretary published a notice formally disclosing to the public the comments received on the Missouri program from the Environmental Protection Agency, the Secretary of Agriculture, and other federal agencies (45 FR 47712).

On September 2, 1980, the Director of the Missouri Land Reclamation Commission withdrew the State's July 3, 1980, request that the Secretary not affirmatively disapprove certain state program provisions analogous to remanded or suspended federal regulations. *See* administrative record number MO–186. Also, see the paragraph entitled "Other Secretarial Considerations" below for a discussion of how the Secretary is proceeding on this issue.

On September 17, 1980, the Director of OSM recommended to the Secretary that he approve with conditions the Missouri program.

On August 7, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Missouri program relating to air and water quality standards being approved today. *See* administrative record number MO–184.

On August 11, 1980 and September 12, 1980, Missouri promulgated those regulations that were submitted to OSM in proposed and pre-proposed form on May 14, 1980. Those regulations corrected most of the deficiencies that OSM identified earlier to the State (*See* Administrative Record No. MO–98).

Elements Upon Which the Secretary Evaluates the Program for This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process," the Secretary hereby sets forth the elements of the proposed Missouri program upon which the findings and decisions below are being made.

(a)(1) Because of the 104 day rule promulgated May 20, 1980, 30 CFR 732.11(d) (45 FR 33927), only those statutory provisions and rules that were fully enacted on or before May 15, 1980, are being considered as a basis for this decision.

(a)(2) All provisions not fully enacted on the 104th day, including those presently enacted and proposed amendments and revisions to the Missouri permanent program, are being considered and discussed in this notice, but cannot be approved now by the Secretary.

Other Secretarial Considerations

Provisions of the Missouri program analogous to those federal rules suspended or remanded by the court were previously proposed for disapproval. A public comment period was held to determine the completeness of the list of provisions to be disapproved and the extent to which each of the provisions would be disapproved. *See* 45 FR 47713, July 16, 1980. No comments were received as a result of that notice. However, OSM has determined that the proposed list was incomplete in that Section 10 CSR 40–8.040, Penalty Assessment, which is analogous to 30 CFR Part 845, was not included. Accordingly, those regulations identified at 45 FR 47713 (July 16, 1980) and Missouri regulation 10 CSR 40–8.040 (insofar as it establishes a point system for assessing civil penalties) are being affirmatively disapproved by the Secretary in this decision.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Missouri has, subject to the exceptions in findings 1(a), 1(g), 4(b), 4(c), 4(f), 4(g), 4(i), 4(j), 4(k), and 4(o) the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Missouri Surface Coal Mining Act (MSCMA) and the regulations adopted thereunder provide for the regulation of surface coal mining and

reclamation operations on non-Indian and non-federal lands in Missouri in accordance with SMCRA, except that Missouri omits provisions for protection of Missouri Land Reclamation Commission employees performing their duties in accordance with Section 704 of SMCRA. The general criminal provisions do not provide the same degree of protection for state employees as Section 704 of SMCRA does for federal employees. The Secretary finds that this deficiency is minor because the history of state and coal industry relations in Missouri indicates that state employees will not likely be either significantly deterred in performing their duties or subject to violence or harassment during the time this deficiency is being corrected;

(b) The MSCMA provides sanctions for violations of Missouri laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Missouri Land Reclamation Commission or its inspectors;

(c) The Missouri Land Reclamation Commission has sufficient administrative and technical personnel to enable Missouri to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Missouri law 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 Missouri;

(e) The MSCMA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Missouri has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Missouri has fully enacted regulations consistent with regulations issued pursuant to SMCRA, with the following exceptions:

(1) The Missouri regulations omit enforcement authority provisions comparable to 30 CFR Part 843 including enforcement of cessation orders (843.11), enforcement of notices of violation (843.12), suspension or revocation of permits (843.13), service of notices of violation and cessation orders, formal review of citations (843.16), inability to comply (843.18) and injunctive relief (843.19). The Secretary finds that this deficiency is minor because the State has basic enforcement authority and procedures in the Missouri Surface Coal Mining Act adequate to enforce the permanent program until said time as the deficiency is corrected.

(2) Missouri omits regulations providing for citizen suits comparable to 30 CFR 700.13. The Secretary finds that this deficiency is minor because the MSCMA contains authority adequate to allow citizen suits as required by Section 520 of SMCRA. The absence of the procedural provision contained in 30 CFR 700.13 should not adversely affect a citizen's rights during the time the deficiency is being corrected.

(3) Missouri omits regulations allowing for the public participation aspects of 43 CFR Part 4, as required by 30 CFR 840.15, including the award of costs and attorneys' fees found in 43 CFR 4.1290. The Secretary finds that this deficiency is minor because the award of costs and attorneys' fees is authorized by the MSCMA. The absence of implementing regulations should not adversely affect public participation during the time this deficiency is being corrected.

(4) Missouri omits regulations to provide procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking consistent with 30 CFR 700.12. Public participation in rulemaking under a state program is required by 30 CFR 732.15(b)(10). The Secretary finds that this deficiency is minor because the absence of petition procedures in the Missouri regulations should not adversely affect public participation in rulemaking during the time this deficiency is being corrected.

(5) Missouri omits permitting requirements and performance standards for underground mining in accordance with 30 CFR Parts 782, 783, 784 and 817, and failed to prohibit underground mining until after state regulations are promulgated. The Secretary finds that this deficiency is minor because the State has basic authority in the MSMCA to regulate underground mining until such time as the permitting and performance standards apply to underground mining. Further, no underground mining is being conducted or is proposed to be conducted in the state.

(6) Missouri omits permitting requirements and performance standards for concurrent surface and underground mining operations in accordance with 30 CFR 785.18 and 30 CFR Part 818, and failed to prohibit such operations until after state regulations are promulgated. The Secretary finds that this deficiency is minor because no concurrent surface and underground mining operations are being conducted in the state and no such operations are proposed to be conducted during the time this deficiency is being corrected.

(7) Missouri omits permitting requirements and performance standards for in situ processing activities in accordance with 30 CFR 785.22 and 30 CFR Part 828 and failed to prohibit such operations until after state regulations are promulgated. The Secretary finds that this deficiency is minor because no in situ processing activities are being conducted in the state and no such activities are proposed to be conducted during the time this deficiency is being corrected.

(8) Section 10 CSR 40–3.040(4)(D)(4) provides for a broad variance for restoration of stream channels and construction of permanent diversions after temporary diversions have been constructed. This variance is not allowed under SMCRA or 30 CFR 816.44(d). The Secretary finds that this deficiency is minor because the restoration of stream channels and construction of permanent diversions should not be adversely affected during the time that this deficiency is being corrected.

(9) Section 10 CSR 40–3.050(4)(A)2B is inconsistent with 30 CFR 816.65(a)(2)(ii) in that it does not require "persons" to be notified prior to night blasting. The Secretary finds that this deficiency is minor because the state has agreed during the time this deficiency is being corrected not to grant the special variance for night blasting unless the applicant agrees to notify all persons consistent with 30 CFR 816.65(a)(2)(ii).

(10) Section 10 CSR 40–3.120(7)(B)4 omits specific performance standards for the revegetation of commercial forest land and is, therefore, inconsistent with 30 CFR 816.117(b)(4). The Secretary finds that this deficiency is minor because revegetation of forest land should not be adversely affected during the time that this deficiency is being corrected.

(11) Section 10 CSR 40–5.020(5)(B)2 is inconsistent with 30 CFR 764.15(b)(2) because of the omission of requirements that the Land Reclamation Commission notify the public whenever a lands-unsuitable petition is received. The Secretary finds that this deficiency is minor because the state has agreed to notify the public whenever a lands-unsuitable petition is received during

the time that this deficiency is being corrected.

(12) Missouri regulations omit a provision requiring that all persons engaged in surface coal mining and reclamation operations comply with the terms and conditions of their permits and the state's permanent regulatory program. This omission is inconsistent with 30 CFR 771.19. The Secretary finds that this deficiency is minor because the state has the authority in the MSCMA to require persons engaged in mining and reclamation operations to comply with the terms and conditions of their permits and the state's permanent regulatory program. Further, this deficiency will be corrected prior to issuance of any permanent program permits.

(13) Section 10 CSR 40–6.050(8)(B)7 omits a requirement for a description in an operations and reclamation plan of how toxic-forming materials will be disposed. This omission is inconsistent with 30 CFR 780.18(b)(7). The Secretary finds that this deficiency is minor because operation and reclamation plans are not required during the time this deficiency is being corrected.

(14) Section 10 CSR 40–6.070(12)(B) does not require permittees to grant right of entry to authorized representatives of the Secretary of the Interior for inspection and enforcement purposes, making it inconsistent with 30 CFR 786.27(b). The Secretary finds that this deficiency is minor because during the time this deficiency is being corrected, authorized representatives have the right of entry as provided in 30 CFR 842.13.

(15) Section 10 CSR 40–6.090(4)(A)1 does not specify the parameters that will be used to determine what changes constitute significant departures from a mining permit. This is inconsistent with 30 CFR 788.12(a)(1). The Secretary finds that this deficiency is minor because during the time this deficiency is being corrected the state will not be required to determine what changes constitute significant departures.

(16) Section 10 CSR 40–7.010(7)(D) grants an exception from revegetation requirements for a long term intensive agricultural land use. This is inconsistent with 30 CFR 805.13(d) as suspended by court order. No exemptions from those requirements of 30 CFR Part 816 derived from Section 515(b)(20) of SMCRA are presently allowed. The Secretary finds that this deficiency is minor because the state will not have an opportunity to grant an exception to these revegetation requirements during the time this deficiency is being corrected.

(17) Section 10 CSR 40–7.030(1) is inconsistent with 30 CFR 807.11(g) because it does not expressly state that a permittee or any affected person may request a hearing on bond release decisions. The Secretary finds that this deficiency is minor because bond release decisions will not be made during the time this deficiency is being corrected.

(18) Section 40–7.040(2) omits a procedure for bond forfeiture where the permittee failed to comply with a compliance schedule. This is inconsistent with 30 CFR 808.13(a)(4). The Secretary finds that this deficiency is minor because bonds will not be forfeited during the time this deficiency is being corrected.

(19) Section 40–8.010(1)(A)60, definition of permittee, omits the phrase "persons required to hold a permit," thus failing to include wildcat operators. This is inconsistent with the definition in the federal rules under 30 CFR 701.5. The Secretary finds that this deficiency is minor because wildcat operators will not be required under the permanent program to have a permit during the time this deficiency is being corrected.

(20) Section 40–8.010(1)(A)87, definition of surface coal mining operations contain additional definitions of affected land and "disturbed land" which are defined and used differently in the federal regulations in 30 CFR 701.5. Missouri also includes separate definitions of "affected area" and "disturbed area." The Secretary finds that this deficiency is minor because the state will not need to make determinations based on these definitions during the time this deficiency is being corrected.

(21) Missouri regulations omit a definition of "underground development waste," thereby being inconsistent with 30 CFR 701.5. The Secretary finds that this deficiency is minor because the state will not need to make determinations based on this definition during the time this deficiency is being corrected.

(22) Section 10 CSR 40–8.040(1) omits a time frame for the Land Reclamation Commission to notify an operator of a penalty assessment. This is inconsistent with the thirty day maximum specified by 30 CFR 845.17(b). The Secretary finds that this deficiency is minor because the state agrees to give the operator notice within thirty days of a penalty assessment during the time this deficiency is being corrected.

2. As required by Sections 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(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 Missouri program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Missouri program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*). (*See* administrative record number MO–184) and;

(c) Held a public review meeting in Jefferson City, Missouri, on March 13, 1980, to discuss the completeness of the Missouri program submission and subsequently held a public hearing in Kansas City, Missouri, on June 23, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Missouri has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII, as noted more specifically in these findings.

4. In accordance with 30 CFR 732.15, and on the basis of information in the Missouri program submission, including the section-by-section comparison of the Missouri law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, the Secretary finds that

(a) the proposed Missouri program provides for the state to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII within its borders, and that Missouri has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13. This finding is made pursuant to 30 CFR 732.15(a).

(b) Pursuant to 30 CFR 732.15(b)(1), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Missouri program includes provisions to do so, with the exceptions noted in Findings 1(g)5, 1(g)6, 1(g)7, 1(g)8, 1(g)9, 1(g)10, 1(g)20, and 1(g)21.

(c) Pursuant to 30 CFR 732.15(b)(2) the Secretary finds that the Missouri Land Reclamation Commisson has the authority under Missouri laws and regulations and the Missouri program includes provisions to implement,

administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G, and prohibit surface coal mining and reclamation operations without a permit issued by Missouri, with the exceptions noted in Findings 1(g)5, 1(g)6, 1(g)7, 1(g)12, 1(g)13, 1(g)14, 1(g)15, and 1(g)19.

(d) Pursuant to 30 CFR 732.15(b)(3), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815.

(e) Pursuant to 30 CFR 732.15(b)(4), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. These provisions are at 10 CSR 40-8.020 of the Missouri regulations.

(f) Pursuant to 30 CFR 732.15(b)(5), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.810 of the MSCMA and in Part 10 CSR 40–8.030 of the Missouri regulations, and the Missouri program includes provisions to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-indian and non-federal lands within Missouri consistent with the requirements of Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L with the exception noted in Finding 1(g)14.

(g) Pursuant to 30 CFR 732.15(b)(6), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with SMCRA and 30 CFR Chapter VII, Subchapter J (as promulgated March 13, 1979 44 FR 15312) with the exceptions noted in Findings 1(g)(16), 1(g)(17), and 1(g)(18).

The performance bond and liability insurance provisions of Section 507(f), 509, 510, and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J are incorporated in Sections 444.820(7), 444.830, 444.835, and 444.875 of MSCMA and in Chapter 7 of the Missouri regulations.

(h) Pursuant to 30 CFR 732.15(b)(7), the Secretary has determined that the Missouri Land Reclamation Commission has the authority under Section 444.870 of the MSCMA, and the program provides in Part 10 CSR 40–8.040 of the Missouri regulations, to provide for civil and criminal sanctions for violation of Missouri law, regulations and conditions of permits and exploration approvals including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, as remanded by the district court, including the same or similar procedural requirements.

(i) Pursuant to 30 CFR 732.15(b)(8), the Secretary finds that the Missouri Land Reclamation Commisson has the authority under Section 444.885 of the MSCMA, and the program contains in Parts 10 CSR 40–8.030 and 10 CSR 40–8.040 of the Missouri regulations, provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and consistent with 30 CFR Chapter VII, Subchapter L including the same or similar procedural requirements, with the exceptions noted in Findings 1(g)1 and 1(g)22.

(j) Pursuant to 30 CFR 732.15(b)(9), the Secretary finds that the Missouri Land Reclamation Commission has authority under Section 444.890 of MSCMA and Parts 10 CSR 40–5.010 and 10 CSR 40–5.020 of the Missouri regulations, and the Missouri program contains provisions for the designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F, with the exception noted in Finding 1(g)11.

(k) Pursuant to 30 CFR 732.15(b)(10), the Secretary finds that the Missouri Land Reclamation Commission has the authority and the Missouri program provides for public participation in the development, revision and enforcement of Missouri regulations consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII with the following exceptions noted in Findings 1(g)2, 1(g)3 and 1(g)4. The Secretary further finds that the public has had a meaningful opportunity to participate in the development of the state program submitted to OSM based on the information in the administrative record, the public hearings Missouri held on the adoption of regulations pursuant to the MSCMA in Jefferson City, Missouri on December 4, 1979, June 3, 1980, and July 2, 1980, and the public comment periods provided pursuant to the Missouri Administrative Procedures Act.

(l) Pursuant to 30 CFR 732.15(b)(11), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Missouri Land Reclamation Commission consistent with 30 CFR Part 705. These provisions are contained in Section 444.885(8) of the MSCMA and in Part 10 CSR 40–8.060 of the Missouri regulations.

(m) Pursuant to 30 CFR 732.15(b)(12), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.905(4) of the MSCMA 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. Missouri has no regulations on the training, examination, and certification of persons engaged in blasting, but 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated at this time.

(n) Pursuant to 30 CFR 732.15(b)(13), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.820(4) of the MSCMA and Part 10 CSR 40–8.050 of the regulations, and the program contains provisions to provide for a small operator assistance program consistent with 30 CFR Part 795.

(o) Pursuant to 30 CFR 732.15(b)(14), the Secretary finds that the Missouri program does not contain authority to provide for protection of employees of the Missouri Land Reclamation Commission in accordance with the protection afforded federam employees under Section 704 of SMCRA. *See* Finding 1(a).

(p) Pursuant to 30 CFR 732.15(b)(15), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Sections 444.895 and 444.900 of MSCMA and parts 10 CSR 40–8.030 and 10 CSR 40–8.040 of the Missouri regulations to provide for administrative and judicial review of Missouri program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) Pursuant to 30 CFR 732.15(b)(16), the Secretary finds that the Missouri Land Reclamation Commission has authority under Missouri laws and the Missouri 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.

(r) Pursuant to 30 CFR 732.15(c), the Secretary finds that the MSCMA and regulations adopted thereunder and the other laws and regulations of Missouri do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII.

(s) Pursuant to 30 CFR 732.15(d), the Secretary finds that the Missouri Land Reclamation Commission and other agencies having a role in the program have 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.

Disposition of Comments

1. The National Park Service (NPS) identified six counties in Missouri that contain NPS units and requested that they be: 1) consulted on any surface coal mine application that may have an impact on units under their jurisdiction; 2) allowed to participate in inspections of operations that may have an effect on an NPS unit; and 3) able to participate in the development of criteria for designating lands unsuitable for surface mining near NPS units. The Secretary has determined that there are no coal deposits located in or within close proximity to the six counties identified by the National Park Service, thereby alleviating NPS's concerns. No charge, therefore, is required.

2. The Fish and Wildlife Service (FWS) requested that narrative Section VII 9–10, submitted pursuant to 30 CFR 731.14(g)(9) and (10), be revised to include coordination and consultation between the Missouri Department of Natural Resources and the FWS. Missouri Sections VII 9–11 were amended to include coordination and consultation with the U.S. Fish and Wildlife Service. (See Administrative Record No. MO–114).

3. The Regional Office of the FWS submitted a statement, in accordance with the Section 7 Interagency Cooperation Regulations (50 CFR 402, 43 FR 870) and the Endangered Species Act, as amended, preliminarily indicating that the Missouri program would jeopardize some endangered species and their habitat. However, the Director of FWS has subsequently submitted a non-jeopardy opinion concerning the Missouri program submission. *See* Administrative Record No. MO–188.

4. The U.S. Geological Survey (USGS) recommended that Missouri be notified of the existing Bureau of Land Management (BLM), USGS, and Office of Surface Mining (OSM) Memorandum of Understanding (MOU) on the management of federal coal. Missouri has been provided a copy of the joint MOU.

5. The USGS recommended that Missouri include procedures for processing any proposed mine plans or permits that include federal lands. Such processing procedures need not be included in the state plan because: 1) in states without a cooperative agreement with the Interior Department, the Secretary has sole responsibility for review and approval of permit applications on federal lands, and 2) in states with an approved cooperative agreement, the Secretary has joint responsibility with the state, and the procedure for processing mine plans or permits will be identified in the cooperative agreement.

6. The Department of Agriculture (USDA) suggested language be added to the narrative discussion on bonding to insure that surface owners are notified of the decision of the Director of the Missouri Land Reclamation Commission on bond releases. The provisions of Section 10 CSR 40–7.030(1)(E)2 of the Missouri regulations insure that surface owners will be notified of decisions concerning bond releases made by the Director of the Missouri Land Reclamation Commission.

7. The USDA suggested language be added to the narrative discussion on exploration permits to insure that federal, state, and local agencies will be notified when lands they administer are affected by an exploration application. The provisions of the Missouri program apply only to operations on non-Indian and non-federal lands. Although Section 10 CSR 40–6.020 of the Missouri regulations does not require that such agencies be specifically notified of an exploration application, it does provide for general public notice. Furthermore, local governmental entities will be advised of decisions on exploration applications (10 CSR 40–6.020(4)(A)). This notification procedure is the same as prescribed in 30 CFR Part 776.

8. The USDA suggested adding "or the surface owner" after "public" in item I.E.2. on page 4.6 of chapter VII. This is unnecessary because the term "public" includes surface owners; therefore, surface owners already have the right to request inspections.

9. The USDA commented that provisions found at RSM 444.774(1) on page 2.33 of Chapter IV do not allow enough flexibility for grading when timber production is the intended postmining land use. The provisions that the USDA is concerned with are from the 1975 Missouri Strip Mine law that is no longer in effect. Therefore, no change is necessary.

10. The USDA indicated that the regulations do not adequately address ecological succession when timber production is the postmining land use, and largely ignore past research on reforestation of mined lands. The Secretary recognizes that complex ecological relationships characterize forest ecosystems; however, the revegetation standards found at 10 CSR 40–3.120 in the Missouri regulations adequately insure that a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area will be established.

11. The USDA commented that the definition of "Rangeland" found at 10 CSR 40–2.030 should not include the word "forest" as the two are not compatible. The interim regulation referred to by the commenter has been revised and the word "Rangeland" is no longer defined in amended regulation 10 CSR 40–8.010.

12. The USDA suggestd that funds received from the payment of fees or bond forfeitures be made available to the state nursery to guarantee tree seedling orders from mine operators for reclamation purposes. The Secretary has no authority under SMCRA to require such a procedure be included in a state program.

13. The USDA suggested that experimental mining should be permitted separately and therefore have no effect on the bond release on other parts of the permit area. The commenter also suggested that operators be able to amend existing permits to include experimental practices. Finally, the USDA commented that it would be helpful if exploration permits were issued directly to research agencies. The Secretary has determined that all of the aforementioned options are possible under 10 CSR 40–6.060 of the Missouri regulations.

14. The USDA suggested that Missouri enter into a cooperative agreement or sign a memorandum of understanding with the U.S. Forest Service to regulate mining in the Mark Twain National Forest. The commenter also suggested that timber cleared from mining sites on Forest Service land be utilized rather than buried or burned. Under Section 523 of SMCRA, it is optional for a state to enter into a cooperative agreement with the Secretary to regulate mining on federal lands. However, 30 CFR 741.20 and 741.21(a)(1) require that the Regional Director of OSM consult with the authorized officer of the surface managing agency prior to taking any action on a mine application on federal lands. Also, 30 CFR 740.4(d) requires the

consent or concurrence of the surface management agency concerning special requirements relative to the protection of non-mineral resources, including timber, on areas affected by surface coal mining.

15. The USDA suggested adding surface owners to the list of people who receive notification of decisions made on exploration permit applications by the Land Reclamation Commission. The provisions for who must be notified of such decisions in the Missouri program are the same as those in the Secretary's regulations at 30 CFR 776.14(a). Under these provisions, the public must be notified of these decisions by publication in a local newspaper. No change is required.

16. The Environmental Protection Agency (EPA) suggested that Missouri's submission contain regulations for performance standards consistent with 30 CFR Parts 817 and 828 covering underground mining activities and in situ processing respectively. The Secretary agrees that Missouri be required to promulgate regulations concerning underground mining and in situ processing consistent with 30 CFR Parts 817 and 828. *See* findings 1(g)5 and 1(g)7.

17. The EPA expressed concern that coordination with other agencies could be a problem, particularly coordination with the agency charged with water quality responsibilities under Sections 208 and 303 of the Clean Water Act. The Missouri program specifically provides for coordination with the Missouri Clean Water Commission with respect to the Clean Water Act. Also Section 10 CSR 40–6.010(3)(B) specifically requires coordination on Sections 208 and 303 matters.

18. The EPA suggested that Missouri inspectors be "cross-trained" in air and water quality monitoring to improve the effectiveness of the program. The Secretary does not have the authority to require such "cross-training".

19. The EPA recommended that performance standards for coal exploration be included in the Missouri program if exploration activities are permitted. Regulations consistent with 30 CFR 815.15 regarding such standards are included in the Missouri program at 10 CSR 40–4.010.

20. The Department of Energy (DOE) suggested that a hydrologist, geologist, and a mining engineer be added to the staff of the Land Reclamation Commission. Missouri has amended its organizational structure in 731.14(e) to include a hydrologist and an engineer. The position of reclamation specialist lists a background in geology or a closely related field as one of the requirements.

21. The DOE suggested that the narrative for 30 CFR 731.14(g)(4) be expanded to explain in greater detail the provisions for public participation in the inspection and monitoring of coal exploration, mining and reclamation operations. Public participation in these matters is discussed in detail in the narrative portion of the Missouri program for Section 731.14(g)(14).

22. The DOE commented that Missouri did not include a regulation consistent with 30 CFR 771.19, Compliance with Permits. The Secretary agrees that Missouri should promulgate a regulation consistent with 30 CFR 771.19. *See* Finding 1(g)12. Further, the Secretary preliminarily determined that proposed regulation 10 CSR 40–6.010(1)(c) appears consistent with 30 CFR 771.19.

23. The DOE commented that Missouri did not include a regulation consistent with 30 CFR 827.11 regarding the applicability of special performance standards to certain coal processing plants and support facilities. The Secretary finds that Missouri regulation 10 CSR 40–4.050(1) providing for requirements for coal processing plants and support facilities is consistent with 30 CFR 827.11.

24. The DOE commented that the Missouri program should include regulations comparable to 30 CFR Parts 782, 783, and 784 concerning Underground Mining Permit Applications. The Secretary agrees that the Missouri program must include regulations consistent with 30 CFR Parts 782, 783, and 784. *See* finding 1(g)5.

25. The DOE asked that provisions comparable to 30 CFR Part 824 be included in the Missouri program to assure protection of the environment from mining in areas of "hilly terrain". The Secretary disagrees. Under Sections 515 (c) and (e) of SMCRA, these provisions are optional. Not including this Part, which is an exemption from the requirement to return land to its approximate original contour for mining on steep slopes and mountains, makes the Missouri program more stringent, i.e., the exemption is not available under the Missouri program. Therefore, no change is required.

26. The Mine Safety and Health Administration (MSHA) commented that Section 10 CSR 40–2.070(2)(1) did not specify the design storm duration in regard to dams constructed with waste material. Section 10 CSR 40–2.070(2)(1) is an interim program regulation and will not be a part of the regulations contained in Missouri's permanent program. Furthermore, Missouri's permanent regulation on this subject, Section 10 CSR 40–3.080(11)(A), "Dams and Embankments: Design and Construction," is consistent with 30 CFR 816.93.

27. MSHA commented that Section 10 CSR 40–2.070(4) did not require that an abandonment plan be approved by the regulatory authority prior to the removal of dams. Again, this section was an interim regulation and will not be a part of the permanent program. Missouri's permanent program regulation on this subject, 10 CSR 40–3.040(16), "Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities," is consistent with 30 CFR 816.56.

28. MSHA commented that the 100-year, 24-hour design requirement found at Section 10 CSR 40–3.080(10)(B) of the Missouri regulations was less stringent than MSHA's 100-year, 6-hour requirement. The Secretary will not require the state to adopt a more stringent requirement than his rules and since the state regulation is consistent with 30 CFR 816.92(b), the recommended change is not required.

29. MSHA commented that Missouri's definitions of "explosives" and "blasting agent", found in Section 8 CSR 30–2.010(6) of the Missouri Division of Labor and Industrial Relations, regulations differ from MSHA's definitions in 30 CFR 77.2. The regulations of the Division of Labor and Industrial Relations are not a part of the proposed state program and are, therefore, not being evaluated by the Secretary except that he has determined that they are not inconsistent with SMCRA.

30. One commenter stated that the Missouri program provides for only two types of performance bonds, surety and certificate of deposit, and requested that OSM require the state to allow all forms of bonding allowed under the federal regulations. The Secretary has determined that the bonding provisions found at 10 CSR 40 Chapter 7 of the Missouri regulations are consistent with 30 CFR Subchapter J. Any decision by a state to allow fewer bonding alternatives than the federal rules provide would not render the state program less stringent than the minimum federal requirements.

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the states in becoming the primary regulators under the Act. To enable the states to achieve that

primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several state organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups OSM has frequently met with state regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual states. Often these meetings have been a way for OSM and the states to test new ideas and for OSM to explain portions of the federal requirements and how the states might meet them. Alternative state regulatory options, the "state window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the states to develop their programs to adiminister their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to states to assist in the preparation of their permanent program submissions. OSM has also met with individual states to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (*See* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program. Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 USC 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorney general's opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist, not excuse, states from achieving compliance with SMCRA.

Conditional Approval

As indicated above under Secretary's Findings 1(a) and 1(g), there are twenty-three minor deficiencies that the Secretary requires be corrected. In all other respects, the Missouri program (excluding provisions that must be disapproved to comply with the order of the U.S. District Court for the District of Columbia, May 16, 1980) meets the criteria for approval.

The first deficiency, as indicated in Finding 1(a), is the absence of provisions for protection of Missouri Land Reclamation Commission employees performing their duties in accordance with Section 704 of SMCRA.

The second deficiency, as indicated in Finding 1(g)(1), is the absence of regulatory provisions providing for enforcement authority in accordance with 30 CFR Part 843.

The third deficiency, as indicated in Finding 1(g)(2), is the absence of regulations providing for citizen suits in accordance with 30 CFR 700.13.

The fourth deficiency, as indicated in Finding 1(g)(3), is the absence of regulatory provisions providing for recovery of costs and expenses, including attorneys' fees, in accordance with 43 CFR 4.1290–4.1296.

The fifth deficiency, as indicated in Finding 1(g)(4), is the absence of regulatory provisions providing for procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking in accordance with 30 CFR 732.15(b)(10).

The sixth deficiency, as indicated in Finding 1(g)(5), is the absence of permitting requirements and performance standards for underground mining operations in accordance with 30 CFR Parts 782, 783, 784 and 817.

The seventh deficiency, as indicated in Finding 1(g)(6), is the absence of permitting requirements and performance standards for concurrent surface and underground mining operations in accordance with 30 CFR 785.18 and 30 CFR Part 818.

The eighth deficiency, as indicated in Finding 1(g)(7), is the absence of permitting requirements and performance standards for in situ processing activities in accordance with 30 CFR 785.22 and 30 CFR Part 828.

The ninth deficiency, as indicated in Finding 1(g)(8), concerns the inclusion in the Missouri regulations of a broad variance for restoration of stream channels and construction of permanent diversions after temporary diversions were constructed. This variance is not in accordance with SMCRA of 30 CFR 816.44(d).

The tenth deficiency, as indicated in Finding 1(g)(9), concerns the inconsistency between the Missouri regulations and 30 CFR 816.65(a)(2)(ii) concerning who is to be notified prior to blasting at night time.

The eleventh deficiency, as indicated in Finding 1(g)(10), is the absence of specific performance standards for the regulation of commercial forest land in accordance with 30 CFR 816.117(b)(4).

The twelth deficiency, as indicated in Finding 1(g)(11), concerns the inconsistency between the Missouri regulations and 30 CFR 764.15(b)(2) relative to the public notification procedures upon receipt of land unsuitable petitions.

The thirteenth deficiency, as indicated in Finding 1(g)(12), is the absence of a provision requiring that all persons engaged in surface coal mining and reclamation operations comply with the terms and conditions of their permits and the state's permanent regulatory program in accordance with 30 CFR 771.19.

The fourteenth deficiency, as indicated in Finding 1(g)(13), is the absence of a provision requiring a description in the reclamation and operation plan of how toxic materials will be disposed of in accordance with 30 CFR 780.18(b)(7).

The fifteenth deficiency, as indicated in Finding 1(g)(14), is the absence of a provision grantinig the right of entry to mine sites to authorized representatives of the Secretary in accordance with 30 CFR 786.27(b).

The sixteenth deficiency, as indicated in Finding 1(g)(15), is the absence of specific parameters that will be used to determine significant departures from mining permits in accordance with 30 CFR 788.12(a)(1).

The seventeenth deficiency, as indicated in Finding 1(g)(16), concerns the inclusion in the Missouri regulations of an exception from revegetation requirements for long term intensive agricultural land uses. This exception is not in accordance with 30 CFR 805.13(d) as suspended by court order.

The eighteenth deficiency, as indicated in Findidng 1(g)(17), concerns the inconsistency of the Missouri regulations with 30 CFR 807.11(g) as it relates to requests for hearings on bond release decisions.

The nineteenth deficiency, as indicated in Finding 1(g)(18), is the absence of a procedure for bond forfeiture where the permittee fails to comply with a compliance schedule in accordance with 30 CFR 808.13(a)(4).

The twentieth deficiency, as indicated in Finding 1(g)(19), is the inconsistency of Missouri's definition of "permittee" and OSM's definition found at 30 CFR 701.5.

The twenty-first deficiency, as indicated in Finding 1(g)(20), concerns the inconsistency of Missiouri's definition of "surface coal mining operation" and OSM's definition found at 30 CFR 701.5.

The twenty-second deficiency, as indicated in Finding 1(g)(21), is the absence of a definition of "underground development waste" in the Missouri regulations.

The twenty-third deficiency, as indicated in Finding 1(g)(22), is the absence of a provision requiring the Land Reclamation Commission to notify operators of a penalty assessment within thirty days as specified by 30 CFR 845.17(b).

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the Missouri program, the Secretary of the Interior has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of a size and nature as to render no part of the Missouri program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Missouri has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Missouri has agreed, by letter dated October 28, 1980, from Governor Teasdale, to correct the regulation deficiencies by April 1, 1981, and the Statutory deficiency by October 1, 1981.

Accordingly, the Secretary is conditionally approving the Missouri program. The approval shall terminate if regulations correcting the twenty-two deficiencies are not enacted by April 1, 1981, or if the one statutory deficiency is not corrected by October 1, 1981.

This conditional approval is effective November 21, 1980. Beginning on that date, the Missouri Land Reclamation Commission shall be deemed the regulatory authority in Missouri and all Missouri surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal explorations on non-Federal and non-Indian lands in Missouri shall be subject to the permanent regulatory program.

In compliance with the order of the U.S. District Court for the District of Columbia, May 16, 1980, the Secretary affirmatively disapproves the regulations as listed below in 30 CFR Section 925.10(b).

On non-Federal and non-Indian lands in Missouri, the permanent regulatory program consists of the State program approved by the Secretary.

On Federal lands, the permanent regulatory program consists of the Federal rules made applicable under 30 CFR Chapter VII, Subchapter D—Parts 740–745. Missouri and the Department of the Interior will have the opportunity to enter into a State/Federal Cooperative Agreement to include the requirements of the approved Missouri permanent regulatory program on Federal lands.

The Secretary's approval of the Missouri program relates at this time only to the permanent regulatory program under Title V of SMCRA.

The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Missouri may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this conditional approval.

The Secretary has determined that this document is not a significant rule

under E.O. 12004 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: November 17, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

A new part, 30 CFR Part 925, is adopted to read as follows:

PART 925—MISSOURI

Sec.
925.1 Scope.
925.10 State program approval.
925.11 Conditions of State program approval.

Authority: Pub. L. 95–87, Sec. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253.

§ 925.1 Scope.

This part contains all rules applicable only within Missouri that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 925.10 State program approval.

(a) The Missouri permanent regulatory program as submitted on February 1, 1980 and amended and clarified on May 14, 1980 is conditionally approved, effective November 21, 1980. Copies of the approved program together with copies of the letter from the Missouri Department of Natural Resources agreeing to the conditions set forth in 30 CFR 925.11 are available at:

(1) Office of the Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, Telephone: (816) 374–2193.

(2) Missouri Land Reclamation Commission 1026–D N.E. Drive, Jefferson City, MO 65101, Telephone: (314) 751–3241.

(3) Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4728.

(b) In accordance with the May 16, 1980 opinion of the U.S. District Court for the District of Columbia, the Secretary affirmatively disapproves the following list of provisions contained in the Missouri program. These regulations are affirmatively disapproved to the extent indicated or, if no limitation is indicated, in their entirety.

(1) Section 10 CSR 40–5.010(1)(A) 1 B(I), the definition of "valid existing rights," to the extent it does 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.

(2) Section 10 CSR 40–8.010 No. 47, the definition of "mine plan area," and the use of the term in Section 10 CSR 40–6.040 and 10 CSR 40–6.050 to the extent of the court's order regarding requirements of information outside the permit area.

(3) Sections 10 CSR 40–6.040(11) and 10 CSR 40–6.050(7) requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

(4) Section 10 CSR 40–6.040(12) to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

(5) Section 10 CSR 40–7.040(4)(B) to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

(6) Section 10 CSR 40–3.120(5) to the extent it requires 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.

(7) Sections 10 CSR 40–4.030(1)(C), 10 CSR 40–4.030(5)(B), and 10 CSR 40–4.030(5)(C) to the extent they require an operator on prime farmland to actually return the land to crop production.

(8) Section 10 CSR 40–3.120(6)(B) to the extent that it states that an operator's responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

(9) Section 10 CSR 40–3.130 (3)(D) and (3)(I) to the extent it requires an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

(10) Sections 10 CSR 40–6.060(4)(B)3 and 10 CSR 40–4.030(4)(C) concerning excessive soil compaction.

(11) Sections 10 CSR 40–3.040(2)(A)1 and 7 to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

(12) Section 10 CSR 40–3.040(2)(B) relating to effluent standard exemptions during major storm periods.

(13) Section 10 CSR 40–3.040(6)(B) concerning sediment storage volume in sediment ponds.

(14) Section 10 CSR 40–3.040(6)(C) concerning detention time for water in sediment ponds.

(15) Section 10 CSR 40–3.040(6)(D) to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

(16) Section 10 CSR 40–3.040(6)(H) concerning sediment removal from sediment ponds.

(17) Section 10 CSR 40–3.050(4)(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.

(18) Section 10 CSR 40–3.08(3)(A) concerning coal processing waste banks, to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

(19) Section 10 CSR 40–3.090 concerning air resources protection, to the extent it applies to air pollution not caused by erosion.

(20) Section 10 CSR 40–3.140(1)–(21) concerning performance standards for three classes of roads.

(21) Section 10 CSR 40–8.010–75 the definition of "roads" that is used in Sections 10 CSR 40–3.140(1)–(21).

(22) Section 10 CSR 40–6.060(4)(A)8 to the extent that it requires 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.

(23) Section 10 CSR 40–8.070(2)(E) 1A and 1B relating to exemptions for existing structures to the extent that the exemptions are not mandatory after the appropriate findings are made.

(24) Section 10 CSR 40–3.130(2)(A) to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

(25) Sections 10 CSR 40–5.101(2)(c) and 10 CSR 40–5.010(1)(F) to the extent that they prohibit or restrict mining near places only eligible for listing on the National Register of Historic Places, and the words "or a statutory or regulatory responsibility for" in Section 10 CSR 40–5.010(1)(F) are disapproved. Both rules are 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.

(26) Section 10 CSR 40–7.020(2)(E)5C to the extent it requires cessation of operations upon the insolvency of a surety.

(27) Section 10 CSR 40–7.040(2)(C) to the extent that it limits bond liability to protection of the hydrologic balance.

(28) Section 10 CSR 40–3.110(3)(A)1 to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

(29) Section 10 CSR 40–7.010(7)(D) to the extent that the exception the regulatory authority may grant might be from all of Section 216.

(30) Section 10 CSR 40–8.070(2)(B) concerning the two-acre exemption, insofar as it applies to any operation by the person who affects or intends to affect more than two acres of physically unrelated sites within one year when the area affected at each site does not exceed two acres.

(31) Section 10 CSR 40–5.010(1)(J) the definition of "public road."

(32) Section 10 CSR 40–6.060(4)(A) concerning the prime farmland grandfather clause.

(33) Section 10 CSR 40–6.060(1)(B) to the extent that "or has not been" is no longer part of the definition of "irreparable damage to the environment."

(34) Section 10 CSR 40–8.040 to the extent it imposes a civil penalty point system.

§ 925.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in 30 CFR 925.10 will terminate on April 1, 1981, unless Missouri submits to the Secretary by that date copies of program provisions that are the same or similar to those found in:

(1) 30 CFR Part 843, relating to enforcement of cessation orders (Sec. 843.11), enforcement of notices of violation (Sec. 843.12), suspension or revocation of permits (Sec. 843.13), service of notices of violation and cessation orders, formal review of citations (Sec. 843.16), inability to comply (Sec. 843.18) and injunctive relief (Sec. 843.19).

(2) 30 CFR 700.13, relating to citizen suits;

(3) 43 CFR Part 4, relating to award of costs, including attorneys' fees, in administrative proceedings;

(4) 30 CFR 700.12 relative to petitioning the Director of the Missouri Land Reclamation Commission to indicate rulemaking;

(5) 30 CFR 785.18 and 30 CFR Part 818, relating to permitting requirements and performance standards for concurrent surface and underground mining operations.

(6) 30 CFR 785.22 and 30 CFR Part 828, relating to permitting requirements and performance standards for in situ processing activities.

(7) 30 CFR 816.65(a)(2)(ii), relating to notification procedures prior to detonating explosives at night;

(8) 30 CFR 816.117(b)(4), relative to identifying specific performance standards for revegetation of commercial forest land;

(9) 30 CFR 764.15(b)(2), relating to notification procedures upon receipt of a petition to designate lands as unsuitable for mining;

(10) 30 CFR 771.19, relative to requiring all persons engaged in surface coal mining and reclamation operations to comply with the terms and conditions of their permits and the State's permanent regulatory program;

(11) 30 CFR 780.18(b)(7), relative to requiring operators to describe the procedures to be used in disposing of toxic-forming materials;

(12) 30 CFR 786.27(b), relative to granting representatives of the Secretary of the Interior right of entry on operations for inspection and enforcement purposes;

(13) 30 CFR 788.12(a)(1), relative to specifying what parameters constitute significant departures from an approved mining permit;

(14) 30 CFR 807.11(g), relative to requiring notification of a permittee or any other affected person that they have the right to request a hearing on a bond release decision;

(15) 30 CFR 808.13(a)(4), relative to procedures for forfeiting a performance bond where the permittee has failed to comply with a compliance schedule;

(16) 30 CFR 701.5, relating to the definition of permittee;

(17) 30 CFR 701.5, relating to the definition of surface coal mining operations;

(18) 30 CFR 701.5, relating to the definition of underground development waste;

(19) 30 CFR 845.17(b), relative to a time frame in which the Missouri Land Reclamation Commission will notify an operator of a penalty assessment;

(20) 30 CFR 816.44(d), relating to the restoration of stream channels and the construction of permanent diversions;

(21) 30 CFR 805.13(d), relative to revegetation requirements for a long term intensive agricultural use.

(b) The approval found in § 925.10 will terminate on April 1, 1981, unless Missouri submits to the Secretary by that date copies of program provisions that are the same or similar to those in 30 CFR Parts 782, 783, 784 and 817, relating to permitting requirements and performance standards for underground mining, or otherwise amends its program to accomplish the same results;

(c) The approval found in § 925.10 will terminate on October 1, 1981, unless Missouri submits to the Secretary by that date copies of fully enacted provisions that are as stringent as those in Section 704 of the Surface Mining Control and Reclamation Act of 1977, relative to protection of Missouri Land Reclamation Commission employees performing their duties, or otherwise amends its program to accomplish the same results.

[FR Doc. 80-36420 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 36

Minimum Property Standards for One and Two Family Dwellings; Incorporation by Reference

AGENCY: Veterans Administration.

ACTION: Final rule; amendment to material incorporated by reference.

SUMMARY: The Veterans Administration has incorporated by reference the Minimum Property Standards for One and Two Family Dwellings, Department of Housing and Urban Development, 4900.1 at § 36.4360a. The Department of Housing and Urban Development has revised the Standard by issuing revision Nos. 8 and 8a, and notice is hereby given that the Standard as revised by revision Nos. 8 and 8a is incorporated.

Revision No. 8 to the Minimum Property Standards, 4900.1, clarified established criteria, eliminated inconsistencies, and brought criteria in line with recognized codes. Also, general updating of reference material, deletion of redundant material, and corrections in format were made. No substantive changes in the Standards were effected. Revision No. 8a to the Minimum Property Standards, 4900.1, corrected pagination errors caused by delays in processing Revisions 6a and 8.

EFFECTIVE DATE: Revisions No. 8 and 8a were effective August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2691).

Approved: November 17, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-36373 Filed 11-20-80; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 310

Alternative Methods of Paying Postage; Privately Shipped Letters

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Private Express regulations to permit payment of postage on privately shipped letters by means other than those which are presently required, provided that the alternative means are set out in a written agreement with the Postal Service. This new rule is intended to permit the development of alternative payment procedures that can be tailored to the needs of the individual shippers while also ensuring that the Postal Service receives the revenue to which it is entitled.

EFFECTIVE DATE: December 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Belenker, (202) 245–4616.

SUPPLEMENTARY INFORMATION: On September 12, 1980, the Postal Service proposed (45 FR 60453) a rule which would permit persons who ship or carry letters outside the mails, under circumstances requiring payment of postage, to enter into agreements specifying methods of payment which differ from those contained in 39 U.S.C. 601(a) (1)–(6) and 39 CFR 310.2(b) (1)–(6). The existing rule requires that:

(1) The letter be enclosed in an envelope or other suitable cover; (2) the postage be paid by stamps, or postage meter stamps, on the cover or by other methods approved by the Postal Service; (3) a name and address appear on the cover; (4) the cover be sealed; (5) stamps be canceled in ink by the sender; and (6) the date of the letter, or of its transmission or receipt by the carrier, be endorsed by the sender or carrier.

The proposal was intended to authorize payment of postage in ways (which may differ from one firm to another) that are more convenient than the existing procedures, while ensuring that the Postal Service receives the revenue to which it is entitled under the Private Express Statutes. No comments on the proposal were received.

Accordingly, the Postal Service hereby adopts, without change, the following revision of Title 39, Code of Federal Regulations:

In § 310.2 revise paragraph (b) to read as follows:

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

* * * * *

§ 310.2 Unlawful carriage of letters

* * * * *

(b) activity described in paragraph (a) of this section is lawful with respect to a letter if—

(1) (i) The letter is enclosed in an envelope or other suitable cover;

(ii) The amount of postage which would have been charged on the letter if it had been sent through the Postal Service is paid by stamps, or postage meter stamps, on the cover or by other methods approved by the Postal Service;

(iii) The name and address of the person for whom the letter is intended appear on the cover;

(iv) The cover is so sealed that the letter cannot be taken from it without defacing the cover;

(v) Any stamps on the cover are canceled in ink by the sender; and

(vi) The date of the letter, or of its transmission or receipt by the carrier, is endorsed on the cover in ink by the sender or carrier, as appropriate; or

(2) (i) The activity is in accordance with the terms of a written agreement between the shipper or the carrier of the letter and the Postal Service. Such an agreement may include some or all of the provisions of paragraph (b)(1) of this section, or it may change them, but it must—

(A) Adequately ensure payment of an amount equal to the postage to which the Postal Service would have been entitled had the letters been carried in the mail;

(B) Remain in effect for a specified period (subject to renewals); and

(C) Provide for periodic review, audit and inspection.

(ii) Possible alternative arrangements may include but are not limited to—

(A) Payment of a fixed sum at specified intervals based on the shipper's projected shipment of letters for a given period, as verified by the Postal Service; or

(B) Utilization of a computer record to determine the volume of letters shipped during an interval and the applicable postage to be remitted to the Postal Service.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-36487 Filed 11-20-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F2119/R293; PH-FRL 1677-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolities (calculated as the parent compound) in or on sugarcane at 0.2 part per million (ppm). The regulation was requested by E. I. du Pont de Nemours & Co. This regulation establishes the maximum permissible level for residues of hexazinone in or on sugarcane.

EFFECTIVE DATE: Effective on November 21, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–351, 401 M St. SW., Washington, D.C. 20460, (202–755–1397).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** on December 5, 1978 (43 FR 56935) that E. I. du Pont de Nemours & Co., Wilmington, DE 19898, had submitted a pesticide petition (PP 8F2119) which proposed that 40 CFR Part 180 be amended by establishing a tolerance for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolities (calculated as the parent compound) in or on sugarcane with a tolerance limitation of 0.2 ppm. No comments were received in response to this notice of filing.

The data submitted in this petition and other relevant material have been evaluated. The data included metabolism studies in plants and lactating goats; plant residue studies; a rat acute oral LD_{50} study with a LD_{50} of 1,690 milligrams (mg)/kilogram (kg); a guinea pig acute oral LD_{50} study a LD_{50} of 860 mg/kg; a 90-day rat feeding study with a no-observable-effect-level (NOEL) of 1,000 ppm; a 90-day dog feeding study with a NOEL of 1,000 ppm; a rat teratology study which showed that the compound was not teratogenic at 5,000 ppm (highest level tested) a rabbit teratology study with a NOEL of 125 mg/kg (highest level tested) for teratology; a two-year rat chronic feeding/oncogenicity study with a NOEL of 200 ppm and no oncogenic effects; a rat 3-generation reproduction study with a NOEL of 2,500 ppm for adverse reproductive effects; and an Ames test negative for mutagenic activity.

An oncogenicity study in a second species and a 6-month (or longer) non-rodent feeding study are lacking. Further clarification of the metabolism of hexazinone in animals is also required in order to reinforce the present findings. E. I. du Pont de Nemours & Co. has agreed to submit a mouse oncogenicity study by February 1981, and to conduct and submit a non-rodent feeding study and a metabolism study by January 1982, and agreed to withdraw this tolerance if these studies indicate a potentially significant adverse finding.

There are no permanent tolerances for hexazinone. Based on the 90-day dog subchronic feeding study with a NOEL of 1,000 ppm and a safety factor of 2,000, the acceptable daily intake (ADI) is 0.0125 mg/kg/day and the maximal permitted intake (MPI) is 0.75 mg/day per 60 kg person. The requested tolerance will utilize 1.46 percent of the ADI.

There are no regulatory actions pending against registration of this chemical. The metabolism of hexazinone in plants is adequately understood and an analytical method (nitrogen selective gas chromatography) is available for enforcement purposes. There is a label restriction against the feeding of sugarcane forage to livestock, and since no detectable residues are expected in other sugarcane byproduct feed items, there is no reasonable expectation of residues in meat, fat, meat byproducts, eggs, and milk.

The pesticide is considered useful for the purpose for which the tolerance is being sought, and it is concluded that the tolerance of 0.2 ppm in or on sugarcane will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, by December 22, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on: November 21, 1980.

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

Dated: November 14, 1980.

Edwin L. Johnson,

Deputy Assistance Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by establishing § 180.396 to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

A tolerance is established for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolities (calculated as the parent compound) in or on the following raw agricultural commodity:

Commodity	*Part per million*
Sugarcane	0.2.

[FR Doc. 80-36408 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PH-FRL-1678-3; PP OE2380/R292]

3-(3,5-Dichlorophenyl)-5-Ethenyl-5-Methyl-2,4 Oxazolidinedione; Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on kiwifruit at 10 parts per million (ppm). The regulation was requested by BASF Wyandotte Corporation. This rule establishes a maximum permissible level for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on kiwifruit.

EFFECTIVE DATE: Effective on November 21, 1980.

ADDRESSES: Written objections may be filed with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Eugene M. Wilson, Acting Product Manager (PM) 21, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–359, 401 M St. SW., Washington, D.C. 20460, (202–755–1806).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of September 2, 1980 (45 FR 58193) that BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054 had submitted a pesticide petition (PPOE2380). This petition proposed that 40 CFR 180 be amended by the establishment of a tolerance for combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4 oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety resulting from preharvest application in or on the raw agricultural commodity kiwifruit at 10 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of filing.

The data submitted in the petition and other relevant materials have been evaluated. The toxicological data considered in support of the tolerance included a mouse teratology study, a three-generation rat reproduction study, a chronic feeding oncogenic study in rats, a chronic feeding oncogenic study in mice, a dominant lethal assay in mice, a repeated oral dosing metabolism study in rats, a 90-day rat study, and a 90-day dog study. Based on a 90-day dog study, the no-observed-effect level (NOEL) is 300 ppm, or 7.5 mg/kg of body weight (bw) per day. Using a 2,000-fold safety factor, an acceptable daily intake (ADI) is 0.0038 mg/kg of bw/day and a maximum permissible intake (MPI) is 0.2550 mg/day for a 60 kg person. The tolerance results in a maximum theoretical exposure of 0.0045 mg/day for a 1.5 kg diet. The tolerance utilizes 2.0 percent of the ADI. No tolerances have previously been established for residues of 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione. An adequate analytical method (gas chromatolgraphy using an electron capture detector) is available for enforcement purposes.

Assurance has been given that 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione) for use on kiwifruit will be regulated by the country of origin in accordance with use patterns used in developing the supporting residue data. The proposed tolerance is adequate to cover residues in or on kiwifruit. Currently pending with the agency are requests for tolerances in or on apricots and peaches (25 ppm), lettuce and strawberries (10 ppm), cherries (5 ppm), nectarines (2.5 ppm), plums and prunes (1.0 ppm). There is no reasonable

expectation of residues in eggs, milk, meat, or poultry from this use. The agency has determined that amending 40 CFR Part 180 by establishing the tolerance will protect the public health.

Any person adversely affected by this regulation may, on or before December 22, 1980 file written objections with the Hearing Clerk, EPA, 401 M St. SW., Rm. M–3708 (A–110), Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 21, 1981.

(Sec. 408(e), 68 Stat. 512, (21 U.S.C. 346a(e))

Dated: November 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by establishing § 180.380 to read as follows:

§ 180.380 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione; tolerances for residues.

A tolerance is established for residues of the fungicide, 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4 oxazolidinedione, and its metabolites containing the 3,5-dichloroaniline moiety, in or on the following raw agricultural commodity:

Commodity, and parts per million

Kiwifruit—10

[FR Doc. 80–36457 Filed 11–20–80; 8:45 am]

BILLING CODE 6560–32–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 110

Health Maintenance Organizations; Requirements for a Health Maintenance Organization

Correction

In FR Doc. 80–33964 appearing at page 72524 as the Part VIII of the issue of Friday, October 31, 1980, in the third column on page 72531, the first line of paragraph (b) should read as follows:

"(b) After the expiration of the first four."

BILLING CODE 1505–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5945]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; phone: (800) 638–6620.

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. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of 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. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

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. The entry reads as follows:

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

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
New Mexico	Lea	Tatum, town of	350032A	Oct. 16, 1980, emergency	June 21, 1974 and Jan. 16, 1976.
Kentucky	Kenton	Fort Wright, city of	210249B	Oct. 21, 1980 emergency, Oct. 21, 1980, regular.	Jan. 17, 1975.
Montana	Flathead	Kalispell, city of	300025B	July 27, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 22, 1980 reinstated.	Feb. 15, 1974 and May 21, 1976.
Oklahoma	Bryan	Bennington, town of	400260	Oct. 23, 1980, emergency	Aug. 13, 1976.
Colorado	Douglas	Unincorporated areas	080049B	Aug. 28, 1974, emergency, Sept. 3, 1980, regular, Sept. 3, 1980, suspended, Oct. 22, 1980, reinstated.	Feb. 7, 1975 and Sept. 6, 1977.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Tazewell	do	170815B	Aug. 16, 1974, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Oct. 22, 1980, reinstated.	June 2, 1978.
Idaho	Lemhi	do	160092	Oct. 23, 1980, emergency	
Florida	Osceola	St. Cloud, city of	120191B	Apr. 23, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 22, 1980, reinstated.	June 28, 1974 and Feb. 20, 1976.
West Virginia	Jefferson	do	540065B	Dec. 15, 1980, emergency, Oct. 15, 1980, regular, Oct. 15, 1980, suspended, Oct. 24, 1980, reinstated.	Dec. 20, 1974 and Jan. 9, 1976.
Texas	Callahan	Baird, city of	480722	Oct. 29, 1980, emergency	June 11, 1976.
California	Amador	Unincorporated areas	060015A	Oct. 29, 1980, emergency	June 7, 1977.
Massachusetts	Worcester	Paxton, town of	250326A	do	July 26, 1974 and July 30, 1976.
New York	Steuben	Campbell, town of	360768B	Apr. 19, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 30, 1980, reinstated.	May 31, 1974 and Mar. 26, 1976.
Do	St. Lawrence	Parishville, town of	361425	Oct. 30, 1980, emergency	Jan. 17, 1975.
Georgia	White	Helen, city of	130192A	Oct. 31, 1980, emergency	Sept. 6, 1974 and Oct. 17, 1975.

(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: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36177 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF EDUCATION

Office of the Secretary

45 CFR Part 121q

Instructional Media for the Handicapped; Correction

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: In the regulations on instructional media for the handicapped, published in the **Federal Register** on August 5, 1980, pages 52130–52134, a substantive correction needs to be made.

FOR FURTHER INFORMATION CONTACT: Malcolm J. Norwood, Department of Education, 400 Maryland Avenue, SW. (Room 4821, Donohoe Building), Washington, D.C. 20202. Telephone (202) 472–4640.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–23510 (45 FR 52130–52134, Tuesday, August 5, 1980), on page 52132, second column, correct § 121q.2 now reading:

§ 121q.2 Who is eligible to apply under the educational media research, production, distribution, and training program?

Parties eligible for grants under this subpart are nonprofit public and private agencies, organizations, and institutions.

(20 U.S.C. 1451, 1452)

To read:

§ 121q.2 Who is eligible to apply under the educational media research, production, distribution, and training program?

Parties eligible for grants under this subpart are profit and nonprofit public and private agencies, organizations, and institutions.

(20 U.S.C. 1451, 1452)

Dated: November 14, 1980.

(Catalog of Federal Domestic Assistance No. 84.026, Instructional Media for the Handicapped)

Stuart S. Baber,

Deputy General Counsel for Legislation and Regulations.

[FR Doc. 80-36311 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte No. 282 (Sub-No. 7)]

Special Intermodal Authority

Decided: October 30, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: The Staggers Rail Act of 1980, Pub. L. 96–448 (October 14, 1980) created a new section, 49 U.S.C. 11344 (e) which permits under certain circumstances an application to be filed for motor carrier transportation prior or subsequent to rail transportation. We are adopting interim rules under this section which indicate (1) the type of application which must be filed with the Commission to receive special intermodal authority, (2) who must file the application, (3) upon whom the application must be served, (4) how the application can be protested, (5) the action the Commission will take on such applications, and (6) the means by which interested parties can show that the special intermodal authority should be revoked.

DATES: These interim rules shall be effective on November 18, 1980.

Comments upon these rules are due on or before December 22, 1980.

ADDRESSES: An original and 15 copies of comments, if possible, should be sent to Ex Parte No. 282 (Sub-No. 7), Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245 or Wayne Michel, (202) 275–7966.

SUPPLEMENTARY INFORMATION: The addition of 49 U.S.C. 11344(e) by the Staggers Rail Act of 1980 permits a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, to apply for special intermodal authority. This authority would allow applicants to provide motor carrier transportation prior or subsequent to rail transportation to serve inadequately

served shippers located on a rail line other than that of the applicant carrier. The special intermodal authority would be for an indefinite duration and would apply to anyone located on the inadequately served line. The rules contained in the appendix adopt procedures for the Commission to handle these proceedings.

There are five basic sections in these rules. They cover: (1) The contents of the application, (2) notification of the public of the application through service on designated interested parties and concurrent newspaper publication of a notice, (3) protests to the application, (4) the Commission's action on an application, and (5) petitions by interested parties to show that the circumstances requiring special intermodal authority no longer exist.

The rules provide that an original and five copies of the application must be filed on the Commission. The application must contain certain information identifying the applicants and the carrier which will be providing the service. In addition, applicants must file verified statements demonstrating presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail service required by shippers which shippers would reasonably expect the rail carrier to provide. These statements should specifically detail: (1) The nature, duration and extent of the impaired rail service, (2) the reasons why motor common carrier service to shippers is inadequate, and (3) the rail equipment and transportation schedule needs of the shipper(s). Shipper certification that existing rail and motor common carrier service is inadequate will create a rebuttable presumption that special intermodal authority is necessary and should be granted. Applications may only be filed by a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers.

At the same time as the application is filed with the Commission a copy must be served on the carrier(s) providing the allegedly impaired rail service and the designated State agency(s) in which the property is located. In addition, on or before the filing date, a notice must be published in a local newspaper of general circulation setting forth (1) the names and addresses of the applicants, and, if different, the person(s) providing the special intermodal service, (2) the location of the rail line with impaired service, and (3) the procedure for filing protest with the Commission.

The original and five copies of protests in the form of sworn statements must be filed with the Commission within 10 days of the filing of the application.

The Commission is required by the statute to act on these applications within 30 days. If no protest is filed, the Commission shall approve the application. If the application for special intermodal authority is protested, the Commission shall either approve or disapprove it by the 30th day after its filing.

The Commission's grant of the application for special intermodal authority will take effect immediately, and will run until revoked by request of the applicants. If any other party believes that the special authority is no longer warranted it should petition the Commission to revoke the authority. Petitioner(s) will have the burden of proving that the original circumstances warranting the special authority no longer exist. An original and five copies of the petition must be filed with the Commission and copies must be served concurrently on applicants. Applicants will have 30 days to respond to the petition to revoke the special authority. After reviewing the petition(s) and response(s), the Commission will issue an order either revoking the special intermodal authority or denying the petition.

These rules will be used by the Commission on an interim basis. The Commission is faced with an impractical situation in which the due and required execution of the agency functions would be prevented by undertaking a rulemaking prior to the adoption of any rules. Thus, notice and comment for these interim rules are not required under 5 U.S.C. 553(b)(B). Public comments are invited on these interim rules as a basis for final rules. The original and 15 copies of written facts, views, and arguments concerning the proposal detailed in this notice shall be submitted. The proposal may be modified by the comments we receive. We shall act as quickly as possible in formulating final rules.

The rules in the appendix are proposed pursuant to 49 U.S.C. 11344(e) and 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR 1111.11 is added to read as follows:

§ 1111.11 Special intermodal authority.

(a) *Application*—(1) *Who may file.* An application under this section must be filed by a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers.

(2) *Contents.* An application will consist of two elements: identification of the applicants and verified statements presenting the case for special intermodal authority.

(i) *Identification of the applicants.* (A) Each applicant must give its full and correct name and its business address.

(B) Each applicant must indicate whether it is an individual, firm, partnership, corporation, company, association, joint stock company, trustee, receiver, assignee, or other personal representative, and the trade name or style, if any, under which applicant is doing business.

(C) Each applicant must indicate whether it is a rail carrier subject to Title 49, United States Code.

(D) Each applicant must give the name, title and business address of the persons to whom correspondence with respect to the application should be addressed.

(E) Each applicant must indicate whether it, or any of its subsidiaries, is affiliated with a motor carrier subject to Title 49, United States Code. If so, applicant must provide information regarding the nature and scope of its authority.

(F) The rail carrier must indicate the State or States in which any part of its property is located and provide a map of its rail system.

(G) The shipper applicant(s) must indicate the type and duration of business conducted on the allegedly impaired rail line and particulars of its present and prospective activities which have or may have a relation to transportation subject to Title 49, United States Code.

(H) Applicants must indicate the name of the entity which will exercise the special intermodal authority, and all of the above identifying information for that entity.

(I) Applicants must specify the location of the allegedly impaired rail line by giving the endpoints and listing all towns along the line. Applicant shall

also indicate where on its rail line it intends to interline the traffic.

(ii) *Verified statements.* Applicants must demonstrate both presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail service required by shippers and which shippers would reasonably expect the rail carrier to provide. In making their case applicants can offer evidence as to: (A) The nature, duration, and extent of the impaired rail service, (B) the reasons why motor common carrier service to shippers is inadequate, and (C) the rail equipment and transportation schedule needs of the shippers. Shippers certification that there is presently impaired rail service and inadequate motor common carrier service will create a rebuttable presumption that special intermodal authority is necessary.

(3) *Filing requirements.* The original and five copies must be filed with the Commission.

(b) *Service and Notice.* (1) A copy of the application shall at the time the application is filed be served on:

(i) The rail carrier providing the allegedly impaired rail service, and

(ii) The designated State agency(s) in which the allegedly impaired rail line is located.

(2) A notice shall be published in a local newspaper of general circulation on or before the application's filing date setting forth:

(i) The full and correct names and addresses of the applicants,

(ii) The location of the allegedly impaired rail line by giving the endpoints and listing all towns along the line,

(iii) The identification of the person(s) who will be exercising the special intermodal authority,

(iv) The identification of the date on which the application will be filed with the Commission and

(v) An explanation that protests in the form of an original and five copies of verified statements, must be filed with the Commission within 10 days of the filing of the application.

(3) The application shall contain a certificate indicating that the above parties were served and a notice complying with the listed provisions was published.

(c) *Protest.* The original and five copies of a protest to an application filed under 49 CFR 1111.11(a) shall be filed with the Commission within 10 days of the filing of the application. The protest shall be in the form of verified statements and shall demonstrate why there is no presently impaired rail service and/or inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail services required by shippers and which shippers would reasonably expect a rail carrier to provide.

(d) *Commission action.* The Commission shall issue a decision approving or disapproving the application within 30 days of its filing.

(e) *Revocation of the special intermodal authority*—(1) *Who may file.* A rail carrier or motor carrier which has existing authority within the area covered by the special intermodal authority and which believes that the circumstances requiring the special authority no longer exist may petition the Commission for an order revoking the authority.

(2) *Contents.* The petition must specifically show what circumstances have changed and how those changes alleviate the need for the authority.

(3) *Filing.* An original and five copies of the petition must be filed with the Commission.

(4) *Service.* A copy of the petition must be served concurrently on the original applicants.

(5) *Replies.* Applicants will have 30 days to respond to the petition. An original and five copies of any replies must be filed with the Commission. A copy must also be served on petitioner(s).

(6) *Commission action.* After consideration of the petition(s) and reply(s) the Commission shall issue an order either.

(i) Denying the petition, or

(ii) Revoking the special intermodal authority.

[FR Doc. 80-36486 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco; 1981 National Marketing Quotas for Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture must announce by February 1, 1981, the national marketing quotas for burley tobacco for the 1981–82 marketing year. The public is invited to comment on the amount of the national marketing quota and other factors set forth in this proposed rule.

DATE: Written comments must be received by January 21, 1981 in order to be sure of consideration.

ADDRESSES: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, Room 3754 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733. 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 Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) it is determined after review of these and related regulations contained in 7 CFR 726.2 for need, currency, clarity, and effectiveness that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in development of the final rule.

The title and number of the Federal Assistance Program that this Proposed Rule applies to is: Title—Commodity Loan and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

The Agricultural Adjustment Act of 1938, as amended (referred to herein as the "Act") requires the Secretary to determine and announce the amount of the national marketing quota for the 1981–82 marketing year. Section 319(b) of the Act provides that this action shall be taken on or before February 1, 1981.

Section 319(c) of the Act provides that the national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretay estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established). A reserve of 800,000 pounds was established for the 1980–81 marketing year (45 FR 8578).

Section 301(b) of the Act defines "Reserve supply level" as normal supply plus 5 percent. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's domestic consumption" is defined as the yearly average quantity produced in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "Normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The reserve supply level used in determining the national marketing quota for the 1980–81 marketing year was 1,640 million pounds, calculated from a normal year's domestic consumption of 490 million pounds and a normal year's exports of 130 million pounds (45 FR 8578). The proposed reserve supply level for use in determining the national marketing quota for the 1981–82 marketing year is 1,678 million pounds, calculated from a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds.

Section 301(b) of the Act defines "total supply" as the carryover at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1980–81 marketing year is 555 million pounds based on carryover of 1,028 million pounds and estimated production of 1,583 million pounds.

The amount of the national marketing quota for the 1980–81 marketing year is 615 million pounds based upon total utilization of 615 million pounds with no adjustments necessary to maintain or reduce supplies (45 FR 8578). For the 1981–82 marketing year, utilization in the United States is estimated to be about 490 million pounds and exports are estimated to be about 140 million pounds. The total supply for the 1980–81 marketing year is 95 million pounds less than the proposed reserve supply level. Accordingly a downward adjustment in estimated disappearance in the 1981 quota is determined unlikely.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the

previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided*, that such national factor shall not be less than 95 per centum. Section 319(i) of the Act provides, in part, that if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional marketing patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

Proposed Rule

The subjects and issues involved in the proposed determinations with respect to burley tobacco for the 1981–82 marketing year are:

1. The amount of national marketing quota.
2. The amount of the reserve supply level.
3. The amount of the national reserve.
4. Whether the Secretary should implement the provision in section 319(i) of the Act to encourage additional marketings of any grades to insure traditional marketing patterns.

The national factor is not considered an issue in these determinations because it results from a mathematical computation under section 319(e) of the Act.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Signed at Washington, D.C. on: November 13, 1980.

Donald L. Gillis,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-36125 Filed 11-17-80; 10:01 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans and Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration amends it regulations regarding Community Facility Loans and Development Grants for Community Domestic Water and Waste Disposal Systems to recognize that certain Indian tribes might not be subject to State and local laws. The intended effect of this action is to remove a possible barrier to greater Indian participation in these programs. This action is taken as a result of an administrative review.

DATES: Comments must be received on or before January 21, 1981.

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

FOR FURTHER INFORMATION CONTACT: John W. Slusser, Loan Specialist, Room 5318, South Agriculture Building, Washington, D.C. 20250, Phone: (202) 447–5717. 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 Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The FmHA programs and projects which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H. However, applications from Federally recognized Indian Tribes are not subject to the requirements of FmHA Instruction 1901–H, "A–95 Review, Evaluation, and Coordination of Projects." Not all Indian tribes are subject to State and local law. FmHA proposes to amend § 1942.1 of Subpart A of Part 1942 and § 1942.351 of Subpart H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations.

[FCDA No. 10.418, Water and Waste Disposal Systems for Rural Communities]

Therefore, as proposed, Part 1942 is amended as follows:

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

1. As proposed, § 1942.1 is revised to read:

§ 1942.1 General.

(a) This subpart outlines policies and procedures for making and processing insured loans for community facilities. The Farmers Home Administration (FmHA) shall cooperate fully with appropriate State and local agencies in the making of loans in a manner which will assure maximum support to the State strategy for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use as prescribed in this Subpart are to be considered for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. The policy of FmHA is to extend its financial programs without regard to race, color, religion, sex, marital status, age, or national origin.

(b) Indian tribes on Federal and State reservations and other federally recognized Indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this regulation that affect applicant eligibility, the adequacy of FmHA's security or the adequacy of service to users of the facility and all other requirements of this regulation must be met.

(c) The County Office will normally be the entry point for preapplications and serve as a local contact point. However, applications will be filed with the District Office and loans will be

processed to the maximum extent possible by the District Office staff. The appicant's governing body should designate one person to coordinate the activities of its engineer, architect, attorney, and any other professional employees and to act as contact person during loan processing. FmHA personnel should make every effort to involve the applicant's contact person when meeting with the applicant's professional consultants and/or agents. The State Office staff will monitor community programs loan making and servicing, and will provide assistance to District Office personnel to the extent necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on community program loan activity within the County Office service area to the County Supervisor at key points throughout the loan making process as described herein.

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

2. As proposed, § 1942.351(b) and (c) are redesignated to (c) and (d), respectively, without change and a new § 1942.351(b) is added to read as follows:

§ 1942.351 General.

* * * * *

(b) Indian tribes on Federal and State reservations and other Federally recognized indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this regulation that affect applicant eligibility, the adequacy of FmHA's security or the adequacy of service to users of the facility and all other requirements of this regulation must be met.

* * * * *

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

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: November 5, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-36322 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Quality Service

7 CFR Ch. XXVIII

Grading of Shell Eggs, Rabbits, and Poultry, and Inspection of Eggs and Egg Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Prenotice: Review of existing regulations under Executive Order 12044.

SUMMARY: The Food Safety and Quality Service (FSQS) plans to review its existing regulations concerning the voluntary grading of shell eggs, poultry and rabbits, the voluntary inspection of egg products, and the mandatory inspection of eggs and egg products. The review will examine the effectiveness of the regulations in meeting the following goals: (1) Addressing consumer concerns regarding health and food safety, (2) eliminating unnecessary burdens on consumers and industry, (3) achieving consistency with legislative goals, (4) creating an efficient structure for achieving intended results, (5) minimizing overlapping jurisdiction with other Federal agencies, (6) providing a presentation of material in clear, understandable language, and (7) improving methods in light of new scientific and technological innovations. In order to conduct a thorough and meaningful review, the Department is soliciting the views of consumers, the industry, Federal, State, and local agencies, and other interested parties on such regulations, as well as recommendations for improvements in these areas.

DATE: Comments must be received on or before January 21, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250. (See also comments under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Ashley R. Gulich, Chief, Poultry Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–3506.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit written comments concerning this notice. Comments must be sent in duplicate to the office of the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the **Federal Register.** Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Ashley R. Gulich so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours.

Background

Executive Order 12044, "Improving Government Regulations," (43 FR 12661) in part directs each Executive Agency to adopt procedures to improve and periodically review its existing regulations. In response, the Department of Agriculture issued Secretary's Memorandum 1955, "Improving USDA Decisions and Regulations." This departmental memorandum implemented the President's prescribed measures for improving the Federal Government's rules and regulations by establishing procedures designed to minimize unnecessary burdens on the public while achieving maximum effectiveness in all decisions including rulemaking and regulatory review processes. Public participation was noted to be an important source for obtaining ideas and information to better serve the public in this undertaking. All agencies were, therefore, directed to solicit actively public comment and to obtain the greatest possible public input. Furthermore, each USDA agency was to develop a plan to assure that regulations which have existed more than 5 years would be reviewed.

Pursuant to these directives, the Administrator, FSQS, has adopted a plan for the review of existing regulations and has appointed a Regulatory Review Task Force to conduct such review. The FSQS plan covers the entire review process and includes a detailed discussion of the following categories: (1) Background and Requirements for the Review, (2) Regulations Subject to the Review, (3) Review Criteria and Priorities, (4) Public Comment and Organization, and (5) Schedule for Review of Existing Regulations. A copy of the plan is available for public inspection in the office of the Regulations Coordination Division during regular hours of business.

The Regulatory Review Task Force is responsible for:

1. Coordinating the overall review.
2. Establishing the final criteria to be used in reviewing each regulation.
3. Selecting FSQS personnel to participate in the review.
4. Setting a schedule and monitoring operations within this schedule.
5. Establishing the priority for reviewing all Agency regulations.
6. Certifying to the Administrator and Assistant Secretary that each regulation has been thoroughly reviewed within the guidelines of Executive Order 12044 and Secretary's Memorandum 1955.
7. Recommending a "Significant" or "Not determined to be Significant" designation.
8. Establishing a date for the next review of the regulation.
9. Other related duties.

As the FSQS Task Force commences its review of specific sections of Agency regulations, the Department will publish a notice in the **Federal Register** inviting public comments on those particular regulations to be reviewed.

This Prenotice

The Task Force is reviewing the regulations for the voluntary inspection of egg products and grading, the voluntary grading of shell eggs and U.S. standards, grades and weight classes for shell eggs, the mandatory inspection of eggs and egg products and the voluntary grading of poultry products and rabbit products (7 CFR Parts 2855, 2856, 2859, and 2870).

The Department is inviting comments from consumers, the industry, Federal, State, and local agencies, and other interested parties to assist the Task Force in identifying and reconsidering those portions of the aforementioned regulations which:

1. Present consumer concerns with respect to health and food safety.
2. Impose unnecessary burdens on the public or industry.
3. Are not consistent with legislative goals.
4. Are difficult to enforce, i.e., those found inefficient in achieving the intended results.
5. Indicate unnecessary overlapping jurisdiction with other Government agencies.
6. Are unclear, difficult to understand, or are duplicative of, or inconsistent with, other regulations.
7. May be improved by use of new scientific and technological innovations.

All comments received will be carefully considered by the FSQS Regulations Review Task Force. In the event that it appears changes in the existing regulations are necessary, amendments will be proposed in the **Federal Register** in conformance with established rulemaking procedures.

Done at Washington, D.C., on: November 17, 1980.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36325 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

7 CFR Part 2852

United States Standards for Grades of Canned Fruits; Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On March 21, 1980, the Food Safety and Quality Service (FSQS) published in the **Federal Register** a document proposing to amend the United States standards for grades of major canned fruits. The proposal was published at the request of the Canners League of California. Its effect would be to improve the current standards and add a new standard for canned fruit mix. In response to a request for additional time to study the proposal and gather data, the Department is extending the comment period to December 12, 1981.

DATE: Comments must be received by December 12, 1981.

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

FOR FURTHER INFORMATION CONTACT: Leon R. Cary, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6193.

SUPPLEMENTARY INFORMATION:

Significance

The proposal was reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "significant."

Background

On March 21, 1980, the Food Safety and Quality Service published a proposal to amend the United States Standards for Grades of Major Canned Fruits. The proposed amendment included standards for canned sweet cherries, canned fruit cocktail, canned pears, canned apricots, and canned grapes; all major canned fruits packed in California. Also included is a proposal for a new United States Standards for Grades of Canned Fruit Mix. Interested persons were given until December 12, 1980, to comment.

The Agency has been requested by the Canners League of California to extend the period of time within which data, views, or arguments may be submitted to December 12, 1981. The request stated that additional time was needed to develop comments which will accurately reflect the manufacturing practices of the industry.

Since the Agency is interested in receiving meaningful data, the Agency has determined that these circumstances are considered sufficient justification for extending the comment period to December 12, 1981.

Done at Washington, DC, on November 17, 1980.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36267 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 1001

Advance Notice of Proposed Rulemaking for the Licensing of Ocean Thermal Energy Conversion Facilities and Plantships

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Pub. L. 96-320, the Ocean Thermal Energy Conversion Act of 1980 ("the Act") is intended to provide a stable legal system and streamlined licensing process to facilitate development of ocean thermal energy conversion (OTEC) facilities and plantships. Among other things, the Act requires the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue regulations setting out the details of the simplified licensing system for construction, location, ownership and operation of OTEC facilities and plantships which are associated with the United States or U.S. citizens.

This advance notice of proposed rulemaking (ANPR) pertaining to NOAA's responsibilities under the Act is issued to provide interested persons

with an early opportunity to contribute to the development of regulations. Interested persons are invited to submit written data, views, and comments concerning the issues identified in this ANPR, and concerning any other aspects of NOAA's implementation of the Act.

DATES:

(1) Comments should be received by NOAA on or before Friday, January 16, 1981.

(2) NOAA will hold a public hearing on Wednesday, January 7, 1981, between 9 a.m. and 12 noon, to promote public discussion of the issues identified in this ANPR, and any other issues interested persons may raise.

ADDRESSES:

(1) Submit written comments to Robert W. Knecht, Director, Office of Ocean Minerals and Energy, NOAA, Page 1 Building, Room 410, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235.

(2) The hearing will be held in Room 6802, Department of Commerce Building, 14th Street between Pennsylvania and Constitution Avenue, NW, Washington, D.C.

(3) All comments that are submitted will be available for public examination and copying at the time and place shown in Section II of Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

Richard Norling or Lowell Martin, Office of Ocean Minerals and Energy, NOAA, Telephone: (202) 653–8257.

SUPPLEMENTARY INFORMATION:

I. Mailing List

Any person who wishes to receive regulatory documents as they become available during this OTEC rulemaking should furnish name, address, affiliation, and telephone number to the Director, NOAA Office of Ocean Minerals and Energy (see the "ADDRESS" section of this ANPR) in order to be placed on the mailing list.

II. Availability of Comments

All comments received in response to this ANPR will be available for public examination and copying during normal business hours in Room 410, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C.

Any person submitting comments containing information which that person considers to be a trade secret, or commercial or financial information that is privileged or confidential, may request that such information be given confidential treatment.

Requests for confidential treatment of information must be in writing and must be submitted together with the information. Information subject to the request for confidential treatment must be segregated from information for which confidential treatment is not being requested and each page (or segregable portion of each page) subject to the request must be clearly marketed with the legend "Confidential Treatment Requested". Where this marking proves impracticable, a cover sheet containing the legend must be securely attached to the compiliation of information.

Any request for confidential treatment must include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination whether the information is a trade secret, or commercial or financial information which is privileged or confidential. Issues addressed should include:

(1) The commercial or financial nature of the information;

(2) The nature of the competitive advantage enjoyed as a result of possession of the information;

(3) The nature of the competitive harm which would result from public disclosure of the information;

(4) The extent to which the information has been disseminated to employees and contractors of the submittor, or to other persons;

(5) The extent to which persons other than the submittor possess, or have access to, the same information; and

(6) The nature of the measures taken to protect the information from disclosure.

NOAA will establish appropriate safeguards against unwarranted disclosure of confidential information.

III. Proposed and Final Rules

NOAA will issue proposed rules to implement the Act after comments received in response to this ANPR have been evaluated. NOAA plans to issue the proposed rules in March 1981, and final rules in July 1981. NOAA plans to hold public hearings on the proposed rules, and on a draft environmental impact statement concerning this rulemaking, in April 1981.

IV. Regulatory Issues, and Possible Alternative Approaches

A. General Background

OTEC facilities and plantships (a plantship is basically an OTEC facility that floats unmoored or moves through the water) will produce electric power, or energy-intensive products, by using the thermal differential between warm ocean surface waters and cold, deep (approximately 1,000 meters) waters. The OTEC principle can be applied most economically in areas where the thermal differential between surface and deep waters in about 20° C or more. This makes the most probable U.S. locations for OTEC facilities or plantships in the Gulf of Mexico area and the southeastern continental United States and the island areas under U.S. jurisdiction, such as the State of Hawaii, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa. The electricity generated could be transmitted to shore by cable and then distributed via normal electric distribution grids. The energy also could be used at sea to produce ammonia, aluminum, or other products which would be transported to shore by conventional marine transportation methods. U.S. plantships could operate in a number of areas on the high seas.

The industry is in a formative stage at present because, although the basic principles of OTEC power generation have been tested, the hardware, engineering, and operational requirements of commercial-scale OTEC operations have not yet been fully developed and will require substantial capital investments of tens or hundreds of millions of dollars.

The Act is intended, among other things, to: (1) Establish a stable legal structure to encourage private industry to develop OTEC as a commercial energy technology; (2) protect the marine and coastal environment and the interests of other users of the territorial sea, continental shelf and high seas, and foreign nations that may be affected by discharges from an OTEC facility or plantship; and (3) ensure that Federal OTEC-related actions are consistent with approved State coastal zone management plans.

The Act authorizes the Administrator of NOAA to license (and requires persons to obtain licenses prior to) the construction, location, ownership and operation of:

(1) OTEC facilities connected to the United States by pipeline or cable;

(2) OTEC facilities located in the territorial sea of the United States;

(3) OTEC plantships documented under the laws of the United States; and

(4) OTEC plantships that are constructed, owned or operated by United States citizens.

The Act requires NOAA to issue regulations for the licensing of these OTEC facilities and plantships. NOAA has a major responsibility for enforcing the Act and its implementing regulations. The Coast Guard is

responsible for enforcement of measures for safety of life and property at sea.

B. Alternative Regulatory Approaches Under Consideration

NOAA is just beginning its rulemaking process to implement the Act. In developing OTEC licensing and enforcement regulations, NOAA will address a wide variety of issues, including, for example: (1) The amount and type of financial, technical, environmental and other information that an applicant must submit with an application; (2) criteria for selecting a "winning" OTEC facility (or combination of facilities) when there are multiple applicants for the same geographic area; (3) environmental safeguards, including environmental monitoring requirements; and (4) the prevention of interference by one OTEC facility or plantship with another, with other users of the territorial sea, Continental Shelf and high seas, and with foreign nations.

In identifying and evaluating alternatives for the development of OTEC regulations for each of these general areas, NOAA first would define the basic objective for each, and then evaluate alternative approaches. For example, three general approaches would be for NOAA to:

(1) Address these areas in substantial detail in its regulations, providing specific terms that would apply to all OTEC operations. If experience later revealed that detailed and extensive requirements were unnecessary, NOAA could reduce them on a case-by-case basis.

(2) Address an area in more general terms in its regulations, and then develop individualized license terms, conditions, and restrictions based on the specific OTEC facility or plantship design and site characteristics associated with each license application.

(3) Employ less detailed requirements in both the regulations and the terms, conditions, and restrictions for each OTEC license, and rely on the subsequent monitoring specified in the Act to ascertain whether additional requirements are needed in the future.

In considering alternative approaches to these regulations, NOAA will assess the feasibility of relying on techniques which may allow more flexibility for OTEC builders, owners, and operators while still accomplishing the purposes and meeting the requirements of the Act and providing adequate guidance to prospective OTEC designers and users. For instance, NOAA may be able to rely on general environmental performance standards or parameters, rather than specifying detailed requirements concerning use of specified types of equipment or specified operating procedures. NOAA also may provide generalized guidance in its regulations for meeting the requirements of the Act, but then allow the applicant to identify in detail in its application how it will meet these requirements. Once NOAA issued a license under this approach, NOAA would expect the OTEC builder, owner or operator to conduct its activities according to the terms of its application.

NOAA will consider impacts on small business from the regulations.

C. Issues

NOAA invites comment on the merits of applying the above alternative regulatory approaches (and any other approaches that commenters may suggest) to the issues discussed below and to any other regulatory issues arising under the Act.

Several of the issues upon which NOAA seeks comment raise questions concerning potential overlaps in the roles and areas of jurisdiction of different Federal agencies. Although the Act gives NOAA the lead role in licensing OTEC facilities and plantships and in enforcing applicable legal requirements, there is potential overlapping jurisdiction among NOAA, the Environmental Protection Agency (EPA), and the Coast Guard. (See, for example, the following Issues: No. 1, No. 3, No. 10, No. 14, No. 15, No. 16, and No. 17.) NOAA welcomes suggestions on how potential overlaps may best be avoided in administering the Act.

NOAA's initial views on how to approach certain issues are provided below. These initial views should not be interpreted to be NOAA's final decision on how to address particular issues.

Unless otherwise noted, section numbers refer to the Act.

The Application and License Process

Issue No. 1: Information to be Submitted with an Application

What types and detail of financial, technical and other information should NOAA's regulations require an applicant to include in an application for a license? (See section 102(d)(2).)

For example:

(1) What information is necessary or appropriate to the findings the Attorney General must make under § 104 concerning creation of situations inconsistent with the antitrust laws?

(2) What information pertinent to granting of financial assistance under Title XI of the Merchant Marine Act of 1936 should be submitted along with an application for a NOAA license, and what pertinent information should not be submitted until the time an applicant actually applies to the Maritime Administration for Title XI assistance? (See Title II of the Act.)

(3) What information is necessary or appropriate to the exercise of NOAA's environmental protection responsibilities under the Act?

Initial NOAA View

NOAA intends, as a general policy, to minimize the information required in a license application, consistent with the requirements of the Act.

Issue No. 2: Amount of Application Fees

(a) What application fee should NOAA charge persons applying for *initial issuance* of an OTEC license? (See section 102(h).)

(b) What application fee should NOAA charge persons applying for *transfer or renewal* of an OTEC license?

Initial NOAA View

(a) NOAA has not formulated an initial view regarding the appropriate application fee to cover administrative costs of reviewing and processing an application for initial issuance of a license. NOAA notes that the fee charged by the Coast Guard for a Deepwater Port license application under a similar statute is $100,000, plus reimbursement to the government for processing costs above that amount (See 33 CFR 148.107).

(b) NOAA has not formulated an initial view regarding the appropriate fee for the transfer or renewal of an OTEC license.

Issue No. 3: "One-Stop" Application and Licensing Process

What role should NOAA play with respect to facilitating the appropriate, timely review by other Federal (and, if appropriate, State and local) agencies of an application for licensing of an OTEC facility or plantship? (See section 101(c)(1), section 101(c)(4), section 101(d)(1), and section 102(f).)

Initial NOAA View

The Act states that an application filed with NOAA shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an OTEC facility or plantship, except for authorizations administered by the Coast Guard. However, the Act does not explicitly state the role which NOAA is to play with respect to other agencies after it has sent copies of an application to them. NOAA has not formulated an

initial view on the degree of facilitation or coordination which is appropriate.

Issue No. 4: "Land-based" OTEC Facilities

What special regulatory provisions, or exceptions from the general licensing and enforcement regulations, are appropriate for OTEC facilities which are located, in part, on land?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Review of Applications

Issue No. 5: Adjacent Coastal States

Should additional, or more detailed, criteria be established to guide the determination of "adjacent coastal states" under section 105(a)(2) of the Act, or are the criteria specified in section 105(a)(2) appropriately comprehensive and specific?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No.6: Opportunities for Public Participation

Should additional opportunities for public review of OTEC license applications be established in NOAA's licensing procedures, or are the statutory requirements for public hearings and an environmental impact statement on each application sufficient means for public participation? (See section 102, especially section 102(g), and section 107(e).)

Initial NOAA View

NOAA believes the public review provisions in the Act provide ample opportunity for public participation in the consideration of each application for an OTEC license. However, NOAA will consider additional means of enhancing the public's role in review of applications if commenters can suggest a way to accomplish this objective without incurring significant additional expense or delay in the application review process.

Approval or Disapproval of an Application

Issue No. 7: "The National Interest"

What criteria and procedures should NOAA use to determine whether a license application is or is not "in the national interest and consistent with national security, and other national policy goals and objectives, including energy self-sufficiency and environmental quality", a determination required by section 101(c)(2)?

Initial NOAA View

NOAA believes that any regulations on this issue ultimately must provide some flexibility for the Administrator of NOAA to judge the merits of each license application. Some additional guidance regarding illustrative factors to consider when making this "national interest" determination may be derived from: (1) Section 2 of the Act, entitled "Declaration of Policy"; (2) section 102(i)(3) of the Act, relating to decision criteria when multiple applications are received for the same site; and (3) from section 2 of Pub. L. 96-310 (the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act), which states the findings and purposes of the Congress in enacting Pub. L. 96-310.

Issue No. 8: Multiple Applications for Same Site

Should NOAA's licensing regulations elaborate on the Act's criteria for choosing between two or more applications to locate an OTEC facility at the same site? (See section 102(i)(3).) What criteria or factors should NOAA use in specifying the geographic bounds of the "application area" encompassing the site proposed in an application for an OTEC facility? (See section 102(e)(1) and section 3(17).)

Initial NOAA View

NOAA has not formulated initial views on these issues.

General Requirements Applicable to Licensees

Issue No. 9: Diligence

What standards would be appropriate regarding the duty of a licensee to pursue diligently the construction and operation of an OTEC facility or plantship for which he has received a license? For example, should NOAA require applicants to specify construction and operation schedules in their application, which would become conditions of the license? (See section 106.)

Initial NOAA View

NOAA believes that diligence standards should apply to all licenses issued (for example, to preclude efforts by speculators to secure rights to highly desirable OTEC sites if the speculators do not plan promptly to use the site's thermal resource). NOAA has not formulated an initial view regarding the specific content of such diligence standards.

Issue No. 10: Reports and Records

What type of reports and records should NOAA require a licensee to maintain and submit? (See section 112.)

Initial NOAA View

NOAA believes that although such requirements should be minimized, licensees should be required to maintain records regarding environmental quality, the electricity or other product production on the OTEC facility or plantship, any significant changes in the composition of ownership of the OTEC facility or plantship, and other subjects to be determined during this rulemaking.

Issue No. 11: Removal of Components

What bonding requirements should NOAA establish to assure the appropriate disposal or removal of OTEC facility or plantship components upon the termination, revocation, relinquishment, or surrender of a license? (See § 101(d)(3).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 12: Confidentiality

Should NOAA establish special criteria or procedures concerning confidentiality of certain types of trade secrets or commercial or financial information reported to or collected by the NOAA Administrator under the Act? Alternatively, are the Act's restrictions upon the Administrator's release of information that is exempt from disclosure under 5 U.S.C. 552(b)(4) sufficiently clear that NOAA need not issue regulations to detail the Act's protections against disclosure? (See section 112(b), and 15 CFR Part 903, NOAA's "Public Information" and Freedom of Information Act regulations.)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Environmental Safeguards; Avoidance of Use Conflicts

Issue No. 13: Site Evaluation and Preconstruction Testing

Should NOAA issue regulations governing site evaluation and pre-construction testing activities at potential OTEC facility or plantship locations? If the commenter believes NOAA should issue such regulations, should the regulations be issued before, contemporaneously with, or after NOAA's general licensing regulations? (See section 102(b).)

Initial NOAA View

NOAA believes that some information that might be gathered from OTEC industry participants conducting site evaluation and other at-sea activities could be useful in augmenting the information currently available for use in preparing the environmental impact statement on NOAA's general licensing regulations. However, the agency's issuance of site evaluation and preconstruction testing regulations would achieve this objective only if industry actually will be conducting such activities during the next year or so.

Issue No. 14: Environmental Protection Measures

What types of environmental protection measures should be applied, as license conditions or by regulation, to the operation of OTEC facilities and plantships? (See section 101(d)(1) and 101(g).) How should they relate to EPA's requirements under the National Pollutant Discharge Elimination System (NPDES)?

Initial NOAA View

NOAA could consider certain types of environmental protection measures for inclusion in its licensing regulations as "generic" or "across the board" requirements applicable to all OTEC facilities and plantships. Such measures might include requirements that: (1) Any submarine electrical transmission cable or product pipeline be buried; (2) the discharge waters be mixed and discharged through a single outfall structure; (3) the discharge structure(s) be located at a specified depth below the surface (e.g., at the thermocline or pycnocline); or (4) specified anti-biofouling chemicals or procedures be used. Such requirements would be established only if supported by appropriate evidence. Such requirements probably would require site-specific and design-specific "fine-tuning" through attachment of precise conditions to each license issued for an OTEC facility or plantship.

Issue No. 15: Environmental Monitoring

What specific types of environmental monitoring should NOAA require of each licensee, and how frequently should NOAA require submission of such monitoring reports? (See section 110(3).) How should NOAA's requirements relate to EPA's monitoring requirements under the NPDES program?

Initial NOAA View

NOAA's initial view is that a licensee should be required to implement an oceanographic and environmental monitoring program to meet at least the following objectives: (1) Demonstration of compliance with applicable State, Federal, or other pertinent water quality standards; (2) early detection of potential releases from the OTEC facility or plantship of toxic or hazardous substances; and (3) monitoring of the effects of the discharge plume.

Issue No. 16: Criteria for Immediate Suspension

What criteria should NOAA apply in determining whether to suspend construction or operation of an OTEC facility or plantship immediately in order to protect public health and safety or to eliminate an imminent and substantial danger to the environment? (See section 111(b).) Alternatively, what advantages or disadvantages may accrue in administering NOAA's enforcement responsibilities under the Act if NOAA chooses not to elaborate in regulations upon the standards provided in section 111(b)?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 17: Prevention of Interference with Other Ocean Users, and Other Nations

(a) What types of OTEC-related interference with other legitimate users of the ocean and with other nations' territorial seas or natural resource jurisidiction zones should NOAA seek to prevent? (For example, interference could arise from the thermal characteristics of the plume affecting the local ocean environment, or interference with a "downstream" OTEC facility could result due to increased biomass induced by the presence of nutrients upwelled and discharged by an "upstream" OTEC).

(b) What types or categories of non-OTEC ocean uses or user groups should be specifically recognized in NOAA's regulations on non-interference?

(c) What standards or criteria should NOAA use to determine whether significant interference with other ocean uses would in fact occur? For example, how should NOAA define the phrase "significant difference in temperature" under section 3(17)?

(d) What methods and/or standards should NOAA use to reduce or prevent OTEC-related interference with other ocean uses and users? (For example, NOAA could use license conditions; efforts to mediate or arbitrate disputes; and criteria elaborating on the "reasonable regard" principle of international law.) (Relevant sections of the Act: See section 109(a); section 109(b); section 101(c)(3); section 101(c)(9); section 101(c)(11)–(13); section 3(17).)

Initial NOAA View

NOAA has not formulated initial views on these issues.

Issue No. 18: Upper Limit on Number of OTEC Facilities and Plantships

Should NOAA specify an upper limit on the number or total capacity of OTEC facilities and plantships, either overall or in a specific geographic area, after conducting studies under section 107(b) of the Act? (See section 101(c)(14).)

Initial NOAA View

Although the cumulative environmental effects or the potential for depleting the thermal resource by operation of a number of OTEC facilities and plantships is certainly worthy of substantial attention, NOAA believes that we do not now possess (nor are we likely to possess within the next few years) sufficient information to support a regulation limiting numbers of OTEC facilities and plantships. In lieu of such a regulation, the environmental and use-conflict implications of multiple OTEC operations in the same geographic areas could be addressed during the application review process for later-filed applications (see section 101(c)(11) and 101(c)(13)). NOAA probably will defer any decision on this issue until the studies required under section 107 have been conducted.

Enforcement Criteria

Issue No. 19: Compliance Orders

What criteria should NOAA apply to issuance of compliance orders? (See section 302(a)(2).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 20: Suspension, Revocation, or Termination of a License

Should NOAA establish special criteria or procedures for the suspension, revocation, or termination of an OTEC license under certain circumstances? (See section 102(a) and section 111(a).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

V. Public Participation

A. *Public Hearing.* See the "Dates and Addresses" section of this ANPR for

information on the hearing will hold concerning this ANPR.

B. *Public Participation Funds Available.* Because public participation in this rulemaking can reasonably be expected to promote a full and fair determination of the issues involved, NOAA has made available $5,000 to compensate participants in the rulemaking who meet the eligibility criteria of NOAA regulations governing "Financial Compensation of Participants in Administrative Proceedings" (15 CFR Part 904). For further information concerning the availability of these public participation funds, see NOAA's announcement at 45 FR 70475 (Friday, October 24, 1980). As specified in that earlier announcement, applications to receive part or all of this public participation fund must be received by NOAA on or before November 24, 1980.

VI. Rulemaking by Other Federal Agencies

NOAA advises interested persons that other Federal agencies also may be issuing regulations to carry out new responsibilities under the Act. Agencies that may be conducting OTEC-related rulemaking may include: the Coast Guard (see section 108, section 109(c), and section 303(a)); the Environmental Protection Agency (see section 101(c)(4), and section 107(f)); and the Maritime Administration (see Title II of the Act).

VII. Authority

This advance notice of proposed rulemaking is issued under authority of section 102 of the Act.

Signed this 18th day of November 1980.

Samuel A. Lawrence,

Assistant Administrator for Management and Budget.

[FR Doc. 80-36358 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-12-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Contract Market Rules and Practices Governing the Imposition and Maintenance of Price Limits; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On August 20, 1980, the Commission's advance notice of proposed rulemaking regarding the imposition and maintenance of price limits by contract markets was published in the **Federal Register** (45 FR 55469). The comment period thereon expires on November 18, 1980.

The Commission has received requests for an extension of the comment period. Because the Commission wishes to be certain that all parties have an adequate opportunity to finalize and submit their comments, it is allowing an additional thirty days for comment.

DATES: Notice is hereby given that all comments must be submitted by December 18, 1980.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attn: Office of the Secretariat, (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Christine A. Rock, Attorney Advisor, Division of Trading and Markets, (202) 254–8955.

Issued in Washington, D.C., on November 18, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-36466 Filed 11-20-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM80-69]

Revision of Annual Report of Gas Supply For Certain Natural Gas Pipelines: Form No. 15; Meetings

Issued November 17, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of public meetings.

SUMMARY: On November 6, 1980, the Federal Energy Regulatory Commission (Commission) issued an Interim Rule amending Form No. 15, "Annual Report of Gas Supply for Certain Natural Gas Pipelines," to eliminate reporting requirements which the Commission no longer needs to carry out its regulatory functions (Docket No. RM80-69, 45 FR 75192, November 14, 1980). In that rule the Commission stated that a series of informal meetings with Commission staff would be held to discuss the proposed revisions to the format, instructions and definitions of Form No. 15. The meetings will be held December 2, 9, and 16 in Washington, D.C.

DATES: December 2, 1980 at 10:00 a.m., December 9, 1980 at 10:00 a.m., and December 16, 1980 at 10:00 a.m.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Wayne Thompson, Chief, Gas Supply Branch, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 4402B, Washington, D.C. 20426, (202) 357–9077.

SUPPLEMENTARY INFORMATION: Among items for discussion at these meetings are: (1) redesigning the form to better facilitate human (non-computer) use; (2) standardizing the definitions to conform with those used in other Commission reporting requirements; (3) revising the instructions to comply with changes resulting from passage of the Natural Gas Policy Act of 1978 (15 U.S.C. §§ 3301–3432); (4) examining the need for, and alternatives to, individual reservoir reports; and (5) discussing the possibility of additional supply reporting in the form.

A general discussion of Form No. 15 revisions is scheduled for the December 2nd meeting. The definitions, instructions and redesign of the form will be analyzed at the December 9th meeting. Data automation for the form will be examined at the December 16th meeting. Other relevant questions concerning revisions to Form No. 15 will also be entertained.

If subsequent meetings are necessary, they would take place in January, 1981, in Washington, D.C. Notice of such meetings would be published after the December 16th meeting. Transcripts of the meetings will be placed in the public record, and will be available from the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36321 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 70

[Docket No. 79P-0077]

Nitrites in Bacon; Proposed Exception From the Color Additive Definition and Request for Information on Other Meat Products That May Qualify for the Exception to the Color Additive Definition

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) concludes that nitrites in bacon are not "color additives" under the Federal Food, Drug, and Cosmetic Act because nitrites do not "impart" color to bacon within the meaning of the statutory definition of "color additive." Based on this conclusion, it no longer is necessary for FDA to consider whether nitrites qualify for the exception to the "color additive" definition for substances used solely for noncoloring purposes. FDA's conclusion constitutes final agency action on issues raised in a citizen's petition that asked FDA to regulate nitrites in bacon as "color additives."

EFFECTIVE DATE:
December 22, 1980.

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

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of December 21, 1979 (44 FR 75659), FDA issued a notice of proposed rulemaking in which it proposed to adopt certain new positions relating to the status of nitrites in bacon and other red meats under the color additive provisions of the Federal Food, Drug, and Cosmetic Act (the act). As used in that proposal and in this document, the term "nitrites" includes sodium and potassium nitrate and sodium and potassium nitrite.

The question of nitrites' status as "color additives" was presented initially to FDA on March 12, 1979, in a citizen petition filed jointly by Public Citizen, Inc., and four others (Ref. 1—44 FR 75662; December 21, 1979). The citizen petition asked FDA to declare that nitrites in bacon are "color additives" within the meaning of section 201(t)(1) of the act (21 U.S.C. 321(t)(1)) that may not be used until approved by FDA under the color additive provisions of the act (21 U.S.C. 376).

FDA responded to the citizen petition by letter on June 29, 1979 (Ref. 2—44 FR 75662; December 21, 1979). In that letter, FDA stated its tentative conclusions that: (1) nitrites in bacon are capable of "imparting color" within the meaning of section 201(t)(1) of the act, but (2) nitrites are not properly regulated as "color additives" because they qualify for the exception in section 201(t)(1) of the act for substances determined by FDA to be "* * * used (or intended to be used) solely for a purpose or purposes other than coloring." The response to the citizen petition stated FDA's intention to initiate rulemaking to reach final conclusions on these questions.

As noted, FDA initiated the necessary rulemaking by publishing a proposal in the Federal Register on December 21, 1979 (44 FR 75659). The proposal explained that FDA's tentative conclusion that nitrites are capable of imparting color to bacon would, if made final, also apply to nitrites used in other red meat products. Thus, FDA included in the proposal a request for information on whether red meat products other than bacon also might qualify for the exception to the "color additive" definition. FDA allowed a 60-day comment period on the proposal and request for information. At the request of several industry groups and firms, FDA extended the comment period on the request for information to May 19, 1980 (see 45 FR 11841; February 22, 1980) and then indefinitely (45 FR 32324; May 16, 1980). FDA based the indefinite extension of the deadline on the request for information on the fact that information concerning possible exceptions to the "color additive" definition for nitrites in meats other than bacon would be needed only if FDA concludes finally that nitrites meet the threshold requirement for "color additive" status (i.e., are capable of imparting color). Because the expense required to collect the information would be wasted if FDA were to conclude that nitrites do not "impart" color, the agency agreed to defer the exception issue until after a final decision is reached on whether nitrites "impart" color. Although the comment period on the request for information was deferred, the comment period on whether nitrites "impart" color to bacon and other red meats and whether nitrites in bacon qualify for the exception to the "color additive" definition closed on February 19, 1980.

FDA received more than 150 comments on the proposal. The vast majority of the comments focused on whether nitrites are capable of "imparting" color and argued on scientific, legal, and policy grounds that FDA's tentative conclusion on this point was incorrect. FDA agrees that its tentative conclusion was incorrect and now concludes that nitrites do not "impart" color to bacon within the meaning of section 201(t)(1) of the act. The reasons for this conclusion are discussed below.

II. Discussion

The act defines the term "color additive" in section 201(t)(1), as follows:

(t)(1) The term "color additive" means a material which—

(A) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and

(B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substances) of imparting color thereto; except that such term does not include any material which the Secretary, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

Under this definition, a substance added to food is a "color additive" if it is "capable * * * of imparting color" to the food, but color-imparting substances can be excepted from the definition if FDA (by delegation of authority from the Secretary) makes certain determinations about the purpose for which the substance is used. The threshold question of whether a substance is capable of "imparting color" obviously is of paramount importance; only if a substance "imparts" color must FDA consider whether it qualifies for the exception to the "color additive" definition.

The "color additive" definition was enacted by Congress as part of the Color Additive Amendments of 1960, which established a separate premarket approval system for color additives. A similar system had been in effect for food additives since the enactment of the Food Additives Amendment of 1958. Before enactment of the Color Additive Amendments, non-coal-tar colors added to food were regulated as "food additives," but the Color Additive Amendments amended the definition of the term "food additive" to exclude "color additives." Thus, in the months and years following enactment of the Color Additive Amendments, it was necessary for FDA to determine whether particular substances previously regulated under the "food additive" provisions of the act should be regulated instead as "color additives."

As many comments correctly point out, FDA's original determination with respect to nitrites was that they should continue under the "food additive" provisions of the act because the effect of nitrites in meat was merely to "fix" the color of the meat, not "impart" color. This original determination is reflected in FDA regulations promulgated as far back as 1962 in which sodium nitrite and sodium nitrate are specifically identified as "food additives" and are approved for use as preservatives and color fixatives (21 CFR 121.1063 and 121.1064 (27 FR 2090; March 3, 1962), since

recodified as 21 CFR 172.170 and 172.175 (recodification in the **Federal Register** of March 15, 1977; 42 FR 14302)). FDA has consistently throughout the years maintained its position that nitrites merely "fix" rather than "impart" color. The position is reflected in current FDA regulations (21 CFR 172.170 and 172.175) and has been asserted publicly by FDA in judicial proceedings. See *Public Citizen* v. *Foreman*, 471 F. Supp. 586, 593 (D.D.C. 1979). In addition, U.S. Department of Agriculture (USDA) regulations governing the use of nitrites describe the color effect of nitrites as a color "fixing" effect (see 9 CFR 318.7(c)(4)).

In response to the Public Citizen petition asking FDA to regulate nitrites in bacon as "color additives," FDA reconsidered its longstanding position that nitrites merely "fix" color. The citizen petition argued that nitrites "impart" color to bacon because when nitrites are added to bacon they combine with the myoglobin naturally present in red meat to form a substance that, when heated during the curing process, yields nitrosohemochrome (or nitrosylhemochrome), which is similar in color to fresh pork (pink) but makes the color last longer. The petition contended that no pork without nitrosohemochrome has the exact color of meat with it, but the petition also argued that it is irrelevant for purposes of the "color additive" definition whether a substance changes the color of food in a noticeable way.

By focusing almost exclusively on the details of the chemical reaction that occurs when nitrites are added to bacon, the Public Citizen petition appears to provide a plausible basis for concluding that nitrites "impart" color, and FDA tentatively adopted Public Citizen's position in its response to the citizen petition. In explaining its tentative conclusion that nitrites "impart" color, FDA described in its proposal the chemical reaction that occurs when nitrites are used in the curing of bacon (see 44 FR 75660; December 21, 1979). The agency noted that the color resulting from the use of nitrites in bacon is "* * * similar to, and sometimes nearly indistinguishable from, * * *" the color of the freshly slaughtered meat. The agency tentatively concluded that nitrites "impart" color, however, because, after heating, meat without nitrites turns brown while meat with nitrites retains its pink color.

The majority of comments attack FDA's tentative conclusion on several grounds. On technical grounds, the comments argue that the true color-imparting pigment in meat is myoglobin, which can be various shades of purple, red, pink, or brown depending on the compounds with which it interacts. They argue that the effect of nitrites is to maintain the myoglobin in a stable form that is red in color, noting correctly that the intensity of the red color in nitrite-treated meat is related directly to the concentration of the pigment, not the amount of nitrites added to the meat—once the pigment is stabilized by nitrites, the addition of more nitrites does not increase the intensity of the red color. Thus, these comments seem to argue, color is "imparted" to meat by a naturally occurring pigment; nitrites merely "fix" the pigment in a form that produces a stable, red color.

One comment included photographic evidence intended to show that there is no difference visible to the naked eye between the color of bacon cured with nitrites and the color of uncured pork belly (the portion of the hog from which bacon is produced) 1 day after slaughter. This comment cited a letter in the legislative history of the Color Additive Amendments from then Secretary of Health, Education, and Welfare (HEW) Flemming, which states that the HEW-drafted bill that became the Color Additive Amendments of 1960 was intended to cover substances whose coloring effect is "apparent to the naked eye" (H.R. Rep. No. 1761 at 79; 1960 U.S. Code, Cong. and Adm. News 2929). According to the comment, the comparison of the color of nitrite-cured bacon with that of uncured pork belly 1 day after slaughter is the critical comparison for the purpose of considering whether nitrites "impart" color because it is about 1 day after slaughter that the uncured pork belly would be displayed to consumers on the supermarket shelf. The comment argues that, because there is no visible difference at this point between the color of nitrite-cured bacon and uncured pork belly, nitrites do not "impart" color.

In addition to making these technical arguments, the comments point out that if FDA finally adopts its tentative conclusion that nitrites "impart" color, it will be changing a 20-year-old interpretation of the act without there being any new facts to justify a change. The comments are correct that the relevant scientific facts, i.e., the nature of the chemical reactions that occur when nitrites are added to meat, have not changed since the Color Additive Amendments were enacted in 1960, and there is no genuine dispute over what those reactions are. Thus, the issue of whether nitrites "impart" or merely "fix" color turns on how the chemical reactions are characterized for the purpose of applying the "color additive" definition. This is largely a matter of statutory interpretation; and, the comments argue, the interpretation given the statute by FDA officials immediately following its enactment is entitled to substantial deference. The comments argue further that, because the industry has relied on FDA's original interpretation for nearly 20 years, that interpretation should not be changed, especially in the absence of any significant new facts justifying a change.

Based on the comments it received, FDA concludes that its reconsideration of whether nitrites "impart" or merely "fix" color, which the agency undertook in response to the Public Citizen petition, focused too narrowly on the chemical reactions that occur when nitrites are added to bacon and other red meats and failed to give adequate weight to the practical meaning of the "color additive" definition and FDA's past interpretation of it. FDA concludes that its original and long-held position that nitrites in bacon merely "fix" rather than "impart" color reflects a sound and reasonable interpretation of the "color additive" definition. Nothing contained in Public Citizen's petition or in the comments on FDA's proposal justify a change in that interpretation.

FDA's original position that nitrites are not "color additives" is consistent with the practical approach Congress intended FDA to take in distinguishing "color additives" from other categories of substances added to food by food manufacturers and processors. As noted above, just 2 years before the enactment of the Color Additive Amendments, Congress had enacted the Food Additives Amendment of 1958, which established a premarket approval system for all substances (including colors) that are added to food by food processors and manufacturers, excepting only those substances that are generally recognized as safe, had already been approved by FDA or USDA, or were subject to an existing, adequate regulatory scheme, e.g., pesticide residues under the Pesticide Residue Amendment of 1954. Congress and HEW (the Department that drafted the bill) thus were aware when the Color Additive Amendments were under consideration that all substances intentionally added to food would be subject to acceptably rigorous regulatory standards whether regarded as "color additives" or not and that it was therefore unnecessary to make fine distinctions among substances based on such refined considerations as the

precise nature of the chemical reaction that occurs when a substance is added to food.

Illustrative of the practical approach Congress adopted for distinguishing "color additives" from other substances added to food is Secretary Flemming's explanation, noted briefly above, for why coloring materials used in food packaging would not ordinarily be "color additives," even if they migrate to the food:

> [I]t is our view that the bill is intended to regulate substances that color or are capable of coloring food *to a degree apparent to the naked eye.* Thus, a component of food packaging that migrated into food but did not *change its color in the ordinary sense of the term* would continue to be regulated, if necesssary, under the food additives amendment and would not become subject to the proposed color additives bill.

H.R. Report No. 1761, P. 79; 1960 U.S. Code, Cong. and Adm. News 2929 (emphasis added).

It also is clear from the legislative history that even substances that affect the color of food in readily apparent ways are not all considered "color additives." In responding to a concern expressed by the pesticide industry that certain pesticides might arguably fall within the proposed "color additive" definition, Secretary Flemming wrote the following to Congressman Oren Harris:

> The second question relates to pesticide chemicals as defined in section 201(q) of the Federal Food, Drug, and Cosmetic Act. We are advised that certain fungicides used in fruit production have the effect not only of protecting the tree against plant diseases but also of affecting or supporting natural plant processes so the plant produces better color and finish in the fruit; and some plant growth regulators, when applied to plants, likewise *enhance the development of normal color* in produce derided from them.
>
> It is our view that pesticide chemicals used in this way are not color additives within the meaning of the proposed legislation and *do not impart an artificial color* to the raw agricultural commodities. Rather, they *promote the development of the natural color* of produce as a result of the normal physiological processes of the plant. The legislation which we drafted was not intended to apply to pesticide chemicals which enhance color by affecting or supporting natural plant processes * * *.

Hearings on H.R. 7624 and S. 2197 Before the House Comm. On Interstate and Foreign Commerce, 86th Cong., 2nd Sess. 188–189 (1960) (letter from Arthur S. Flemming to Rep. Oren Harris). (emphasis added).

It is likely that one could trace the chain of chemical reactions that causally connect the pesticides discussed by Secretary Flemming and the resulting color of the fruit, but that obviously is not what Congress intended FDA to do in applying the "color additive" definition. The legislative history, coupled with the use of the terms "dye" and "pigment" in the definition itself, suggest instead that Congress intended the term "color additive" to cover dyes, pigments, and similar substances that are ordinarily thought of as coloring agents.

Against this background, it is clear why the FDA officials responsible for the initial implementation of the Color Additive Amendments did not regard nitrites to be "color additivies." Nitrites have been used as curing agents in modern meat processing since early in the century for their preservative, flavor, and color-fixative effects. During those years, the USDA regulations approving the use of nitrites have consistently described the coloring effect of nitrites as a color "fixative" effect and have explicitly distinguished between coloring agents per se (such as coal tar dyes) and curing agents, whose purposes include, inter alia, "fixation" of color. This distinction is maintained in USDA's current regulation (see 9 CFR 318.7(c)(4)).

When the Color Additive Amendments were enacted in 1960, FDA officials presumably did not scrutinize the chemical reactions that occur when nitrites are added to meat in order to determine whether nitrites were to be regarded as "color additives." They apparently relied instead on the traditioinal conception of nitrites not as "coloring agents" but as "curing agents" that accomplish a variety of processing purposes and that affect the color of meat in a way quite different from dyes, pigments, and other "coloring agents." As the comments on FDA's proposal demonstrate, nitrites do not add a new color to bacon, but instead react with the naturally occurring pigment in meat (myoglobin) to produce during the curing process a form of the pigment that is more stable. The color of the nitrite-cured bacon is not readily distinguishable, however, from the color of the uncured pork belly at or shortly after slaughter. On these grounds, it was reasonable for FDA officials not to regard nitrites to be "color additives" and to continue to regulate them under the more logically applicable Food Additives Amendment.

The grounds that apparently underlie FDA's original position that nitrites are not "color additives" remain sound. In the ordinary sense of the term, nitrites do not "impart" color; they merely "fix" the color naturally present in meat. It is a well-founded principle of statutory construction that the agency's interpretation of its own statutes should be given great weight. *Public Citizen* v. *Foreman* (D.C. Cir. No. 79–1690, July 31, 1980). In this case, FDA hereby reaffirms the agency's longstanding interpretation.

In reaching its tentative conclusion that nitrites "impart" color, FDA relied in part on the fact that meat without nitrites turns brown after heating, while meat with nitrites retains its pink color. However, as a matter of common sense, preserving or "fixing" an existing color so that it does not change during heating is clearly not the same as "imparting" a new color. As shown by the legislative history discussed earlier, it is the addition of a visibly different, new color that makes a substance fall within the "color additive" definition. Substances that affect the color of food in other ways are regulated under other provisions of the act.

If, in applying the "color additive" definition, FDA were to take into account routinely the effects of heating (or cooking) on the color of processed foods, the task of determining whether substances are "food additives" or "color additives" would become extraordinarily complex and would produce surprising results. The heat to which foods are exposed during processing or cooking is sufficient to change the chemical composition, and thus possibly the color, of many substances both naturally present in and added to food. For example, sugar added to bakery products before cooking causes the finished products to have darker crusts than they otherwise would have. However, regardless of how one might describe the chemical reactions that occur, sugar and other substances that only affect the color of finished food articles as a result of changes in color that occur after exposure to heat during processing or home cooking are not the kind of substances Congress intended to regulate as "color additives." By taking a practical, common sense approach to distinguishing between "color additives" and other substances, FDA has been able to avoid wasteful disputes about the proper regulatory category for such substances and to implement the Color Additive Amendments and other food safety provisions of the law in a way that is consistent with both the intent of Congress and the protection of the public health.

As discussed earlier the majority of comments received argue in favor of FDA's final decision to consider nitrites as color fixatives and therefore not color additives. Comments also were received that argue that nitrites do in fact impart

color as originally proposed by the agency. FDA has considered these comments and rejects them for the reasons stated in this document. Still other comments state that while nitrites do indeed impart color, they qualify for the exception to the color additive law since they are used solely for purposes other than coloring. Since the agency rejects the premise of these comments that nitrites impart color, further consideration of their status under the color additive law is irrelevant and therefore has not been considered by the agency in reaching this decision. Lastly, there were several comments that did not substantively address the issue of whether nitrites "fix" or "impart" color. Rather they generally argued that the risks and benefits of nitrites should be considered in deciding their status. All but one of these comments urged the continued availability of nitrites in meat products. The purpose of this rulemaking is to determine whether nitrites used in meat products are color additives within the meaning of 21 U.S.C. 321(t). A risk/benefit analysis is not relevant to this consideration and, therefore, FDA has not considered these comments in reaching the decision that nitrites "fix" rather than "impart" color.

Based on its conclusion that nitrites do not "impart" color to bacon, FDA will not adopt as final regulations proposed § 70.70 *Capacity of nitrites in meat products to impart color* and § 70.100 *Nitrites in bacon*, which incorporated, respectively, FDA's tentative conclusions that nitrites "impart" color but that nitrites in bacon qualify for the statutory exception to the "color additive" definition (see 44 FR 75662). Those proposed regulations are hereby withdrawn. It also is unnecessary for FDA to consider further whether nitrites in meats other than bacon qualify for the exception to the "color additive" definition. FDA thus withdraws its request for information on that issue.

FDA's conclusion that nitrites "fix" rather than "impart" color to bacon constitutes final agency action in response to the Public Citizen petition asking FDA to regulate nitrites in bacon as "color additives."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), (t)(1), 402(a), 701(a), 706, 52 Stat. 1046 as amended, 1055, 72 Stat. 1784 as amended, 74 Stat. 397–407 as amended (21 U.S.C. 321(s), (t)(1), 342(a), 371(a), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the proposed regulations (44 FR 75659; December 21, 1979) are hereby withdrawn.

Dated: November 17, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-36415 filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 2

General Provisions; Rule Making

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: It is proposed to rescind the regulation waiving the exemption to the Administrative Procedure Act (5 U.S.C. 553) for rules relating to public property, loans, grants, benefits or contracts. The rescission is necessary due to confusion that has arisen concerning applicability of APA requirements to matters which have not heretofore been regarded by the Department as "rules." The effect will be to allow the Department to use the exemption provided by Congress for information-gathering procedures.

DATES: Comments must be received on or before December 22, 1980.

ADDRESS: Comments must be in writing and should be sent to Sofia Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N2464, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N2464, 200 Constitution Avenue NW., Washington, D.C. 20210, Telephone 202–523–6807.

SUPPLEMENTARY INFORMATION: Pursuant to a recommendation of the Administrative Conference of the United States, the Secretary of Labor waived his entitlement to the exemption from rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553) for matters relating to public property, loans, grants, benefits, or contracts. Before the regulation went into effect, most agencies under the Secretary of Labor had already informally adopted APA rulemaking procedures. Therefore, the regulation merely reaffirmed existing policy.

However, it has become advisable to revoke in part the waiver of the exemption in order to assure that information-gathering procedures like those used by BLS are not subject to APA rulemaking requirements. The U.S. Court of Appeals for the D.C. Circuit has recently held that methodology developed by the Bureau of Labor Statistics to establish unemployment figures used for allotment of funds under Title VI of the Comprehensive Employment and Training Act are "rules" which must be promulgated pursuant to APA notice and comment procedures. *Batterton* v. *Marshall*, No. 78–1414 (Aug. 28, 1980). The Court of Appeals' decision makes clear, however, that such methodology would ordinarily be exempt from APA procedures as a matter relating to public benefits, under 5 U.S.C. 553(a)(2). Had the Department not waived the exemption, these BLS procedures would not be subject to APA informal rulemaking requirements.

The Department's position has been that information-gathering procedures are not rules within the meaning of the APA, but rather investigatory functions not subject to APA requirements. Had the Department anticipated that such procedures could be deemed "rules" subject to APA notice and comment requirements, it would not have waived its right to invoke the exemption for information gathering relating to "public property, loans, grants, benefits, or contracts." The Department's concern is for the Bureau of Labor Statistics. The Bureau's statutory role is to accumulate information on labor-related subjects for use of the Congress, other government agencies, and the public. The Bureau's information-gathering activities are statistical in nature and are conducted on the basis of scientific principles. To subject purely statistical decision making to procedures required for review of policy decisions under the Administrative Procedure Act might subject BLS methodology to nonstatistical policy influences. It is essential to avoid equating statistical and policy decisions.

The Secretary has therefore determined that it is necessary to amend the existing regulation and reclaim the right to invoke the 5 U.S.C. 553(a)(2) exemption insofar as it covers the Bureau's information-gathering procedures. The Department does not intend to invoke the exemption for any other matters "relating to public property, loans, grants, benefits, or contracts," but will continue its practice of using APA notice and comment procedures for any such matters other than data collection procedures.

The original waiver of the exemption was not promulgated pursuant to APA notice and comment procedures because it was a general statement of policy and a rule of agency procedure within the meaning of 5 U.S.C. 553(b)(A). (See 36 FR 12976 (July 10, 1971)). For the same

reason, it is not necessary to revoke the waiver pursuant to APA requirements for advance notice, public participation, and delay in the effective date. However, in furtherance of the public interest, the Department will voluntarily comply with the APA's comment period in revoking this agency procedural rule.

In any event, the Department of Labor has determined that the proposal in this document is not a "major regulation" that requires preparation of a regulatory analysis and extension of the comment period to 60 days under Executive Order 12044 and the Department's guidelines published at 44 FR 5570 (Jan. 26, 1979).

Accordingly, the Department proposes to amend Part 2, Subtitle A of Title 29, Code of Federal Regulations as set forth below.

PART 2—GENERAL PROVISIONS

1. The authority citation for Part 2 reads as follows:

Authority.—5 U.S.C. 301 and 5 U.S.C. 552–556, unless otherwise noted.

2. Section 2.7 is revised to read as follows:

§ 2.7 Rule making.

It is the policy of the Secretary of Labor, that in applying the rule making provisions of the Administrative Procedure Act (5 U.S.C. section 553), the exemption therein for matters relating to public property, loans, grants, benefits or contracts shall not be relied upon as a reason for not complying with the notice and public participation requirements thereof except for all information-gathering procedures adopted by the Bureau of Labor Statistics.

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

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-36465 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-23-M

Occupational Safety and Health Administration

29 CFR Part 1952

Proposed Supplement to Arizona State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The State of Arizona has submitted a plan supplement describing a change in its occupational safety and health program concerning amendments to the Arizona Occupational Safety and Health Act of 1972. The amendments are based on commitments made to the Occupational Safety and Health Administration before plan approval. This document provides an opportunity for interested persons to comment on the change.

DATES: Comments must be submitted on or before December 22, 1980.

ADDRESS: Submit written data to the Director, Federal Compliance and State Programs, Occupational Health and Safety Administration, 200 Constitution Avenue N.W., Room N3613, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue N.W., Washington, D.C. 20210 (202) 532–6021.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on October 29, 1974 (39 FR 39037). Part 1953 of this chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

1. The State passed several amendments to its Occupational Safety and Health Act on August 27, 1977. The amendments are based on commitments made to the Occupational Safety and Health Administration before plan approval and include:

a. A clarification that sanctions shall apply to violations of any provision of the Act, not only to violations of standards (A.R.S. 23–418).

b. A provision that standards or regulations shall assure, as far as possible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life (A.R.S. 23–410).

c. A clarification that notice of an intended inspection shall not be given prior to the time of actual entry upon the worksite (A.R.S. 23–408).

d. Expanded provisions for the granting of extended abatement periods, including an opportunity for employees to participate in hearings concerning petitions for modification of abatement (A.R.S. 23–417).

e. Clarifications of the definition of "interested party" to include employees (A.R.S. 23–401).

f. Addition of information concerning the Review Board, including personnel and funding (A.R.S. 23–421, 422, 423, 433).

2. The State had also intended to submit an amendment deleting the requirement that a non-serious violation exists "unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of such condition or practice." (A.R.S. 23–401(9)). However, this legislation was not enacted, and the State is proposing that this amendment not be required. By letter of July 31, 1979, Larry Etchechury, Director of the Arizona Division of Occupational Safety and Health, indicated that the State has had no trouble proving employer knowledge and has not withheld any citations because of lack of employer knowledge. In addition , the State has promised to litigate if a citation for a non-serious violation is challenged on the basis of lack of employer knowledge. The State also promised to seek a legislative change to its Act if monitoring reveals any problems with this provision.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85005.

Public Participation

Interested persons are hereby given until December 22. 1980 to submit written data, views and arguments concerning whether the supplement should be approved. Such submissions should be addressed to the Director, Federal Compliance and State Programs, at the above address, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections within the time allowed for comments specified above. If, in the opinion of the Assistant

Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall then issue her decision on approval or disapproval of the supplement, make appropriate changes to Subpart CC or Part 1952, and initiate further appropriate proceedings if necessary.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C 667))

Signed at Washington, D.C., this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36444 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Buffalo National River, Ark.; Motor Boat Regulations; Restricted Access to Cave Systems

AGENCY: National Park Service.

ACTION: Proposed rule.

SUMMARY: The first proposed rule will regulate motorboat usage on the Buffalo River. This is necessary because the narrow stream channel, character of river flow, and visitor use patterns will not allow for unregulated use of motorboats at Buffalo National River. The result will be a reduction in conflict among users and the maintenance of the pristine quality of the Buffalo River.

The second proposed regulation will close most of the caves in Buffalo National River and institute a permit system for entry into those which remain open. This will protect the natural resources of the wild cave system and promote the safety of park visitors who may enter them.

DATES: Writtem comments, suggestions, or objections will be accepted until December 22, 1980.

ADDRESS: Comments should be directed to: Superintendent, Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72601.

FOR FURTHER INFORMATION CONTACT: John Welch, Acting Superintendent, Buffalo National River, Telephone: (501) 741-5443.

SUPPLEMENTARY INFORMATION:

Background

The proposed motorboat regulation is being promulgated by the National Park Service to protect visitors and resources within Buffalo National River. This action is also a part of the final master plan and the proposed regulation has undergone public review within the master plan process. As proposed, it will provide for a reduction in visitor use conflict on the rocky, shallower upstream portions of the river where powerboat and hand powered crafts are in conflict. It will reduce the impact of petro chemical pollutants from motorboats on the aquatic fauna and flora of the river and on water quality. It will also enhance the prestine experience of river users by reducing the manmade noise common to motor driven boats.

These same factors are present, but to a lesser degree, for the lower reaches of the Buffalo. On the lower one-third, from approximately U.S. Highway 14 to the mouth at the White River, the flow of the Buffalo increases and the river channel widens. Because of this increased flow and widening of the river canyon, the character of the river allows for limited powerboat usage if motors are restricted in size, i.e., horsepower ratings.

The determination to regulate entry into the wild cave systems at Buffalo National River was based on the following considerations:

1. The recognized responsibility of the National Park Service for visitor safety; and

2. The legislative mandate that the National Park Service conserve and preserve the natural resources of Buffalo National River for future generations.

In developing this regulation, it was recognized that the speleological environment is an exceedingly delicate one and very responsive to human intrusion. The conditions of caves over time and the value of the cave systems are directly affected by human traffic and the actions of these people as they visit these underground resources. Speleothemes removed or destroyed, marks made on the wall, canisters of carbide dumped on the floor—all acts incompatible with protection of the cave resources—are directly related to visitor use. These and other acts of vandalism will persist, if not indefinitely, at least for many years and will detract from the cave's value in every sense.

Protection of the park visitor was another factor considered in establishing this proposed regulation. Visitors often enter these cave systems unprepared to handle the special situations and hazards inherent to wild caves. They may encounter deep pits, mud slides, water traps, interconnected passageways and cold damp environments which increase the potential for hypothermia.

In developing the proposed regulation to protect the caves and visitors, the following specific areas were considered:

1. Protection of the endangered species of Indiana and Gray Bats that use the caves at Buffalo National River for hibernaculums, maternity and swarming purposes;

2. Protection of fragile cave features and rare formations from damage caused by souvenir collectors, vandalism, carelessness and overuse;

3. Protection of visitors from dangerous hazards found in wild cave systems that they may be unprepared or untrained to handle;

4. Maintaining some unique and little used caves as research study areas where research in cave systems can be conducted; and

5. Protection of the archeological and historical resources found in cave systems at Buffalo National River from damage by vandals, artifact collectors, and careless users.

Continuation of unregulated cave entry at Buffalo National River will lead to several adverse impacts:

1. A reduction or elimination of the endangered species of bats and other cave fauna;

2. A reduction in the fragile and rare cave formations; and

3. An increase in visitor accidents associated with cave systems.

In preparing this regulation, the Superintendent has developed a list of caves open to public entry on government lands within the exterior boundaries of Buffalo National River. The caves which are listed as open to the public have been assessed and rated for content and hazards. All caves on the list are rated in classes that permit them to remain open to the public providing certain requirements are met. Persons who plan to explore the cave resources at Buffalo National River are urged to request from the Superintendent copies of free informational materials that describe the caves open to public use and other requirements.

An environmental assessment on this proposed regulation on cave access has been prepared as required by the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 *et seq.*) This assessment is on file at the park headquarters at the address listed above.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed regulation to the address noted at the beginning of the rulemaking. In the interest of brevity and efficiency, the National Park Service is publishing both of these proposed rules together. However, the Service reserves the right to publish either rule separately as a final regulation.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the environment, which would require preparation of an environmental impact statement.

Drafting Information

The following persons participated in the writing of this regulation; John Turney, former Superintendent, and John Welch, Buffalo National River, Harrison, Arkansas.

Authority: Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

F. R. Holland Jr.,

Acting Associate Director, Management and Operations.

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by the addition of a new § 7.35 (a) and (b) as follows:

§ 7.35 Buffalo National River.

(a) Gasoline, diesel, or other internal combustion engines with a rating of 10 h.p. or less may be used to propel water craft on Buffalo National River from Highway 14 access point to the White River. In all other river locations internal combustion engines are prohibited. The provisions of this paragraph shall not apply to vessels operated for official use by any agency of the United States, the National Park Service and its permittees, the State of Arkansas or its political subdivisions.

(b) (1) All caves located on Federally owned lands within the exterior boundaries of Buffalo National River, Arkansas, except those which are listed as being open, are closed to public entry. This list of open caves is available for public inspection at Park Headquarters at Harrison, Arkansas.

(2) The Superintendent may issue permits for entry into caves or parts of caves for scientific purposes and recreational use.

(3) Entering into any cave system, except as provided for in this section, is prohibited.

[FR Doc. 80-36419 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 1

Privacy Act Exemptions

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration is proposing to amend its regulation to permit the implementation of general and specific exemptions of the Privacy Act of 1974. Currently, for example, investigations conducted by the Office of the Inspector General are seriously hampered when the subject of an investigation requests, under the Privacy Act, access to any and all information that the Inspector General has regarding him or her. Amendment of the regulation would allow the Veterans Administration to implement the exemptions for specified Privacy Act systems of records, thereby preventing subjects of an investigation from interfering with or frustrating the investigatory process, preventing disclosure of investigative techniques, and maintaining the Veterans Administrations ability to obtain necessary information from third-party sources by protecting the confidentiality of a source's identity.

DATES: Comments must be received on or before January 21, 1981. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All Written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit in room 132 of the above address between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Gina Y. Abate (202-389-3431 or 389-3928).

SUPPLEMENTARY INFORMATION: Sections 552a(j) and (k), Title 5, United States Code, provide that the head of an agency may exempt any system of records from specific provisions of the Privacy Act of 1974. The Veterans Administration has several law enforcement systems of records which warrant the protection afforded by §§ 552a (j) and (k). However, the current VA Regulation 582 does not permit the Veterans Administration to utilize either exemption. Specifically, under § 552a(j)(2), the agency would be exempt from disclosing identification information, criminal investigative materials, and reports compiled between the stages of arrest and release from the agency's supervision. Under § 552a(k), the agency could refuse individual access to the accounting of its routine use disclosures, and under an express promise of confidentiality withhold the identity of a source. The agency would also be exempt from the requirements for publication of procedures for individual access and amendment, records source categories and the maintenance requirement for accuracy and relevancy of files. In order that the Veterans Administration may implement §§ 552a (j) and (k) of Title 5, U.S.C. for specific systems of records, VA Regulation 582 is being amended.

APPROVED: November 17, 1980.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

In 38 CFR Part 1, § 1.582 is revised to read as follows:

§ 1.582 Exemptions.

Certain systems of records maintained by the Veterans Administration are exempted from the provisions of the Privacy Act in accordance with exemptions (j) and (k). (5 U.S.C. § 552a(j) and (k)). The system of records which are in the (j) and (k) exemptions are identified in the VA Privacy Act system of records notice.

(38 U.S.C. 210(c))

[FR Doc. 80-36390 Filed 11-20-80; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Veterans Education; Farm Cooperative Courses

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation states that a veteran pursuing a farm cooperative course must be engaged in relevant agricultural employment requiring an average of at least 40 hours of activity per week. Previously Veterans Administration policy required that agriculture be the principal

expected source of earning the student's livelihood before a veteran or eligible person could receive educational assistance allowance for enrolling in a farm cooperative course. This policy has been criticized by some who state that it is possible for a farmer to work full time on his or her farm and still have an off-farm income greater than his or her farm income. This proposal responds to this criticism by basing the determination on whether an individual is a farmer solely on the individual's weekly agricultural efforts.

DATES: Comments must be received on or before December 22, 1980. It is proposed to make this proposal effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until January 2, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202–389–2092.

SUPPLEMENTARY INFORMATION: Section 21.4264 is amended to eliminate references to the principal source of earning a livelihood for a veteran or eligible person in a farm cooperative course and to substitute a reference to the student's average weekly agricultural effort.

This proposal does not meet the Veterans Administration's established criteria for significant regulations. They will have little effect on schools. The proposal will not require schools to make additional reports. The proposal will have no effect, either direct or indirect, on businesses, the general public, the environment, or State and local governments. There will be no costs to businesses or to educational institutions caused by this proposal. The proposal will have no effect on other programs or agencies. The proposal will affect some veterans, but the effect will be beneficial since it will allow them to receive educational assistance allowance for which they may not have qualified otherwise.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 2, 1981. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 17, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

Therefore, the Veterans Administration proposes to amend 38 CFR Part 21 by revising § 21.4264 to read as follows:

§ 21.4264 Farm cooperative courses.

(a) *Description of a farm cooperative course.* A farm cooperative course is an institutional agricultural course. It provides training on a reduced basis to those engaged in farming, compared to other types of training. Part-time benefits are provided for students whose farming operation will not permit them to attend class at least 10 hours per week. (38 U.S.C. 1682; 1732)

(b) *Farm cooperative students must be farmers.* In order to receive educational assistance allowance a veteran or eligible person must be engaged concurrently in agricultural employment for an average of at least 40 hours per week. This agricultural employment must be relevant to the farm cooperative course. (38 U.S.C. 1682; 1732)

(c) *Acceptable class schedules.* (1) The institutional portion of a farm cooperative course—

(i) May be on a term, quarter or semester basis, or

(ii) May consist of courses which—

(A) Are offered during at least 44 weeks of the year, and

(B) Require a minimum of 5 clock hours per week.

(2) The time involved in field trips and individual and group instruction, sponsored and conducted by the educational institution offering farm cooperative courses may be counted toward meeting the clock-hour requirements. See § 21.4270(b) for measurement of farm cooperative courses. (38 U.S.C. 1682, 1732)

(d) *Application.* (1) Any school desiring to enroll veterans, spouses or children in farm cooperative courses—

(i) Will submit to the appropriate State approving agency a written application for approval in accordance with § 21.4253 or § 21.4254 as appropriate; and

(ii) Must submit statements of fact showing at least the following:

(A) That the course is set up in the school catalog or other literature of the school;

(B) That the agricultural course is offered concurrently with agricultural employment; and

(C) That the school itself verifies on a continuing basis that students are engaged for an average of at least 40 hours per week in suitable agricultural employment which is relevant to the institutional agricultural course offered by the school and is in an area consistent with their institutional training program.

(2) For the purposes of this paragraph suitable agricultural employment must include employment on a farm or other agricultural establishment where the basic activity is either—

(i) The cultivation of the ground such as the raising and harvesting of crops including fruits, vegetables and pastures, or

(ii) The feeding, breeding and managing of livestock, including poultry and other specialized farming.

(3) The Veterans Administration does not consider employment in training establishments which are engaged primarily in the processing, distribution or sale of agricultural products or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards or florists shops to be suitable agricultural employment. (38 US.C. 1682, 1732)

(e) *Approval criteria.* The appropriate State approving agency may approve the school's application when the agency finds upon investigation that the school and its courses have met the following conditions:

(1) The criteria specified in § 21.4253 or § 21.4254, as appropriate; and

(2) The requirements of paragraph (d) of this section. (38 U.S.C. 1682; 1732)

[FR Doc. 80-36391 Filed 11-20-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1676-3]

Approval and Promulgation of Implementation Plans: State of Iowa; State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Iowa State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of these revisions is to provide for the attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for lead in Iowa. EPA is proposing to approve the revisions with exceptions. These minor deficiencies are discussed in the "Proposed Actions" section. EPA will work with the Iowa Department of Environmental Quality to correct these deficiencies.

The EPA invites public comments on these revisions, the identified deficiencies, and the consistency of the revisions with respect to the attainment of the lead NAAQS and other requirements of the Clean Air Act.

DATES: Comments must be received by January 21, 1981.

ADDRESSES: Comments should be sent to: Ken Greer, Air Support Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

Copies of the proposed revisions are available for public inspection during normal business hours at the above address and at the following locations:

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

Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316.

FOR FURTHER INFORMATION CONTACT: Ken Greer at (816) 374-3791 (FTS) 758-3791.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, a NAAQS for lead was promulgated by the EPA. The standard was set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g\ Pb/m^3$), averaged over a calendar quarter. As required by section 110(a)(1) of the Clean Air Act Amendments of 1977, within nine months after promulgation of a NAAQS each state shall submit a SIP revision which provides for attainment and maintenance of the NAAQS within the state. The state of Iowa has developed and submitted a SIP for the attainment of the lead NAAQS. The basic requirements of a lead SIP are outlined in 40 CFR Part 51, Subpart E (43 FR 46264, October 5, 1978). These provisions require the submission of air quality data, emission data, air quality modeling, a control strategy, and a demonstration that the lead NAAQS will be attained within the time frame specified by EPA according to the Clean Air Act. The deadline for attainment, as stated in the lead standard final rulemaking (43 FR 46246, October 5, 1978), is no later than October 31, 1982.

Description of Proposed SIP Revision

On August 19, 1980, the Iowa Department of Environmental Quality submitted, on behalf of the Governor, the state SIP for attainment of the NAAQS for lead. The SIP includes the following.

(1) A summary of air quality data measured since 1974, a description of the methods used to collect the data, and an evaluation of the reliability of the data. No monitored exceedences of the lead NAAQS has been observed in Iowa since 1974.

(2) A baseline emission inventory for all point sources emitting five or more tons of lead per year in Iowa, including a mobile source inventory.

(3) A summary of projected lead emissions for point and area sources to 1983.

(4) Air quality modeling around the two major point sources of lead within Iowa, two lead-acid battery plants. The modeling shows no exceedences of the lead NAAQS through late 1982 and early 1983.

(5) A demonstration that the lead NAAQS will be attained and maintained around the two lead-acid battery plants.

(6) A demonstration that mobile sources will not cause an exceedence of the lead NAAQS within the state.

(7) A description of the control strategy for attaining and monitoring the lead NAAQS throughout Iowa.

(8) A description of the Iowa regulations for new source review.

(9) A description of the Iowa regulations for insuring maintenance of the lead NAAQS.

(10) A commitment to do long-term monitoring around the lead-acid battery plants.

(11) A description of the opportunities that the public had to comment on the lead SIP.

EPA's Proposed Actions

After evaluating the Iowa lead SIP as to whether it meets all requirements for an approvable lead SIP, EPA proposes to approve the plan. Minor deficiencies do exist in the SIP, and EPA requests the Iowa Department of Environmental Quality to correct these deficiencies.

One deficiency of the SIP submittal is the date of attainment of the lead NAAQS. The SIP provides for an attainment date in 1983. This date is erroneously based on the assumption that the attainment date should be three years from actual EPA approval/disapproval of the SIP. The attainment date should be October 31, 1982, three years from the statutory approval/disapproval date of October 31, 1979. this time frame was set forth in the October 5, 1978 **Federal Register** notice promulgating the NAAQS for lead (43 FR 46246). Since the SIP demonstrates that the State is presently in attainment and projects attainment through 1983, the difference in attainment dates (October 1982 vs. 1983) in this situation is not grounds for disapproval of the SIP. EPA requests Iowa to correct the attainment date in the lead SIP to read October 31, 1982 and submit the correction to EPA before EPA's final action on the Iowa lead SIP.

A second deficiency of the SIP concerns review of new sources of lead. This deficiency, which applies to all criteria pollutants, was noted in a previous rulemaking published on March 6, 1980 at 45 FR 14565. the State of Iowa has committed to revising their new source review regulations by December 31, 1980. These regulations must provide for review prior to construction or modification of new sources with an estimated emission rate of 5 tons of lead or more per year. The procedure must also provide for 30 days notice for the public to review the State's proposed actions before the final approval/disapproval of new source permits. EPA requests that the State submit information showing these deficiencies have been corrected before final acton is taken on the Iowa lead SIP.

Other deficiencies of the SIP submittal concern the monitoring sites used for lead monitoring, and part of the modeling done for the lead-acid battery plants. The SIP reports that most of the State sampling sites do not meet the currently proposed EPA siting criteria for lead monitoring, since the State's sites were selected before the criteria was formulated. Any future lead monitoring should be conducted at sites which conform to the EPA criteria for lead sites. EPA requests that the State

revise its lead monitoring system to conform to the EPA guidelines for long-term monitoring for lead. The State should submit the revisions to EPA in writing within nine months of the date that the final guidelines for lead monitoring are published.

The State mentions that problems were encountered in the modeling of the lead-acid battery plants. Discrepancies were encountered between the EPA emission factors and stack test information obtained by the State at one of the lead-acid battery plants. Also, there is a question as to the proper method to extrapolate modeled 24 hour averages for lead to quarterly averages. The modeling done by Iowa does not show any exceedances of the lead NAAQS around the lead-acid battery plants. Since the State has committed to further modeling and additional monitoring around the two lead-acid battery plants, EPA considers these deficiencies as resolvable through continued work between the State and EPA. If, after additional modeling and monitoring, exceedances of the standard are predicted or observed, revisions to the Iowa SIP for control measures will be requested by EPA.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region VII Office. Comments received on or before February 19, 1981, will be considered. Comments received will be available for public inspection at the EPA Region VII Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Iowa Department of Environmental Quality has certified, and EPA has confirmed that the public hearing requirements of 40 CFR 51.4 have been met.

Under the Executive Order 12044, EPA is required to judge whether or not a regulation is "significant" and therefore subject to the procedural requirements of that order, or whether it may follow, other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this regulation is a specialized regulation and not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 301(a) Clean Air Act as amended (42 U.S.C. 410 and 7610(a)))

Dated: November 3, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-36374 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL-1676-8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979. On April 9 and on May 9, 1980, EPA conditionally approved certain elements of Missouri's plan. On September 9, 1980, the State submitted documentation that two of these conditions have been fulfilled. These conditions involve a schedule for implementing an inspection and maintenance (I/M) program for vehicle emissions control and a commitment involving the adoption of difficult transportation control measures (TCMs). On August 7, 1980, EPA published regulatory changes affecting new source review in nonattainment areas. A third condition, involving the definition of potential emissions, has been addressed by EPA's new source permit regulations.

On September 24, 1980, EPA published a Notice of Receipt to advise the public that the State of Missouri has made a submission involving these conditions. The conditional approval of the SIP was continued in that action.

This notice advises the public that EPA proposes to approve the Missouri submission. Interested persons are invited to submit comments on this proposal.

DATES: Comments must be received before December 22, 1980.

ADDRESS: Comments should be sent to Mr. Wayne G. Leidwanger, Air Support Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA prepared rationale document are available at the above address. They are also available at the following locations:

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

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION: Contact Wayne G. Leidwanger at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

On April 9, 1980, EPA conditionally approoved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the **Federal Register** notice published on that date (45 FR 24140).

A. Inspection/Maintenance Program

Section 172(b)(11) of the Act is applicable only in the case of ozone and carbon monoxide nonattainment areas which have been granted an extension beyond December 31, 1982, to attain the standards. The St. Louis area was granted an extension by EPA until December 31, 1987, as discussed in the April 9 notice. Section 172(b)(11)(B) of the Act requires that the SIP establish a specific schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program. I/M refers to a program whereby motor vehicles receive periodic inspections to assess the funtioning of their exhaust emission control systems. Vehicles which have excess emissions must then undergo mandatory maintenance.

EPA has issued guidance on the general criteria for SIP approval including specific criteria for I/M programs. This includes a July 17, 1978, memorandum specifying interim milestones in accordance with the general requirement of 40 CFR 51.15(c) requiring increments of progress for compliance schedules over one year in length. (For additional references regarding SIP approvability the reader should consult the April 9 rulemaking.) Among other items, a specific schedule for implementing and I/M program, including interim milestones, must be included in the SIP. The Missouri SIP did not establish such a schedule. As a result, one of the conditions promulgated by EPA on April 9 required the State to develop by August 31, 1980, a schedule which will be followed to lead to a mandatory I/M program. On September 9, 1980, the State submitted an I/M program schedule.

EPA believes the schedule submitted by Missouri for the I/M program in the St. Louis area complies with EPA policy. The schedule includes the major milestones which will lead to a mandatory I/M program.

Proposed Action

EPA proposes to approve the I/M schedule as part of the Missouri SIP and to revoke the applicable condition.

B. Transportation Control Measures

Section 172(b)(11)(C) of the Act requires the SIP to identify other measures necessary for attainment of the air quality standards. This includes transportation control measures (TCM's) as referenced in Section 110(a)(3)(D). The Missouri SIP includes emission reductions for TCM's in the St. Louis area. The East-West Gateway Coordinating Council (EWGCC) is the designated lead planning agency for the St. Louis region and has the required legal authority to develop transportation plans. Although EWGCC is committed to an analysis of alternative TCM's, the SIP did not provide a commitment to justify any decision not to adopt difficult control measures. Section 108(f) lists measures which EPA believes are reasonably available. Consequently, in the April 9 rulemaking, EPA promulgated a condition requiring that EWGCC provide by August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

On June 25, 1980, the EWGCC Board of Directors adopted a resolution to comply with the above condition. The state submitted it as a SIP revision on September 9, 1980. EPA believes the resolution provides the necessary commitment regarding difficult TCM's.

Proposed Action

EPA proposes to approve the commitment by EWGCC as part of the Missouri SIP and to revoke the applicable condition.

C. New Source Review in Nonattainment Areas

On May 9, 1980 (45 FR 30626), EPA promulgated final rulemaking on Missouri's regulations for the review and permitting of new of modified sources of air pollutant emissions in nonattainment areas. One of the conditions for approving these regulations was that the state change the definition of potential emissions to be consistent with EPA's definition by March 1, 1981. The state definition allows sources to include enforceable permit conditions on operating rates and hours of operation and to include air pollution control equipment in calculating annual emissions. At the time of the May 9 rulemaking, EPA had both an existing and a newly proposed definition of the term and the state definition was not consistent with either. (A detailed explanation is given in the May 9 **Federal Register** notice.)

On August 7, 1980, EPA published regulatory changes affecting new source review in nonattainment areas (45 FR 52676). A final definition of potential emissions was promulgated (amended § 51.18(j)(1)(iv). That definition included the provisions similar to those previously adopted by the State of Missouri. However, EPA's definition states that any physical or operational limitation taken into consideration in determining potential emissions must be Federally enforceable. The Missouri regulation states only that "enforceable permit conditons" may be considered. The Missouri regulation might allow consideration of physical or operational limitations, such as operating permit conditions, which would not be Federally enforceable. EPA believes that the Missouri definition of potential emissions is consistent with EPA's definition and that the condition promulgated on May 9 has been met. However, EPA is soliciting comments regarding the above issue, specifically, whether the regulation is approvable as written, or whether some remedial action by EPA is appropriate.

Proposed action

EPA proposes to revoke the condition concerning Missouri's definition of potential emissions.

D. Conclusion

There are other conditions promulgated by EPA which must be addressed by the State before the Missouri SIP can be fully approved. Until all conditions are met, conditional approval of the SIP will continue.

The public is invited to submit comments on whether the Missouri submission should be approved as a revision to the SIP and whether the applicable conditions have been met. A notice of receipt was published in the **Federal Register** on September 24, 1980 (45 FR 46826), at which time the public was advised of the submission. With the publication of the notice of receipt and the 30-day comment period allowed on this proposed rulemaking, 60 days will have been allowed for public inspection and comment on the Missouri SIP revision.

The Administrator's decision to approve or disapprove will be based on comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: October 20, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-36480 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-2-FRL 1676-5]

Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated partial conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester, and Rockland Counties) with regard to its ability to meet the requirements of Part D of the Clean Air Act. Today's notice discusses six of the conditions of EPA's approval and announces EPA's intent to find the provisions of the conditions met. These conditions required the State to submit to EPA on or before August 1, 1980:

1. Key milestones associated with projects relating to transportation control measures which are part of the SIP;

2. An improved program of study for the broader application of certain transportation control measures, and supplemental information on existing studies;

3. Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling;"

4. Criteria and procedures for making changes to transportation projects contained in the SIP;

5. Criteria and procedures for making changes to transportation studies contained in the SIP; and

6. The identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP.

The State made its submission in response to these requirements on July 28, 1980.

DATES: Comments must be received by January 21, 1981.

ADDRESSES: Written comments should be submitted 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 submittal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460

New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047.

New York State Department of Environmental Conservation, Region 3, 211 South Putt Corners Road, New Paltz, New York 12561.

New York State Department of Environmental Conservation, Region 3, 202 Mamaroneck Avenue, White Plains, New York 10601.

New York State Department of Transportation, 1220 Washington Avenue, Building 5, Room 115, State Campus, Albany, New York 12232.

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:

I. Introduction

On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated conditional approval of parts of the New York State Implementation Plan (SIP) with regard to their ability to meet requirements of Part D of the Clean Air Act. The contents of these parts of the SIP and the history of their development are summarized in an EPA notice of proposed rulemaking which was published in the **Federal Register** on December 10, 1979 (44 FR 70754). In addition, with regard to other parts of the plan concerning public transportation improvement measures, the reader is referred to an EPA notice of proposed rulemaking published on June 30, 1980 (45 FR 43794). Generally, the SIP contains regulations and other control measures aimed at attainment of the ozone and carbon monoxide national ambient air quality standards and public transportation improvement measures necessary to meet basic transportation needs. These measures were to be supported by plans, programs, projects, studies and other actions needed to ensure the development, and implementation of various measures to reduce motor vehicle emissions.

In its review of the SIP, EPA found that the plan did not provide adequate administrative and technical procedures and other documentation necessary to ensure its further development and implementation. These shortcomings were identified in EPA's December 10, 1979 **Federal Register** proposal; the additional information necessary to correct them was identified in the following conditions on SIP approval promulgated by EPA in its May 21, 1980 **Federal Register** notice at 40 CFR 52.1674(e)(1), (2), (3), (5), (6), and (7):

(e)(1). On or before August 1, 1980 the State must submit to EPA key milestones (actions and dates) associated with projects relating to the transportation control measures which are a part of its SIP. Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

(i) Parking Restrictions,
(ii) Freight Transportation,
(iii) Limitation on Authorized Parking,
(iv) Bike Lanes (Demonstration Project),
(v) Express Bus and Carpool Lanes,
(vi) Pedestrian Priority Zones,
(vii) Traffic Flow Improvements for Arterials,
(viii) Traffic Flow Improvements for Limited Access Highways,
(ix) Employer Based Programs,
(x) Private Car Restrictions,
(xi) Alternate Work Schedules,
(xii) Bicycle Lanes and Storage Facilities, and
(xiii) Park and Ride and Fringe Parking.

(e)(2). On or before August 1, 1980 the State must submit to EPA an improved program of study for the broader application of the following measures:

(i) Freight Transportation,
(ii) Express Bus and Carpool Lanes,
(iii) Pedestrian Priority Zones,
(iv) Employer Based Programs,
(v) Private Car Restrictions,
(vi) Alternate Work Schedules,
(vii) Bicycle Lanes and Storage Facilities.

In addition, each new and existing study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings must be submitted to EPA.

(e)(3). On or before August 1, 1980, the State must submit to EPA additional documentation to support its determination that the measure, "Controls on Extended Vehicle Idling," is not reasonably available. If such additional documentation cannot be provided, this measure must be recategorized.

(e)(5). On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation projects contained in the SIP. Criteria for "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the Transportation Improvement Program.

(e)(6). On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation studies contained in the SIP.

(e)(7). On or before August 1, 1980 the State must submit to EPA identification of the resources necessary to carry out the transportation planning process and the following transportation elements of the SIP:

(i) Parking Restrictions,
(ii) Freight Transportation,
(iii) Heavy Duty Gasoline Truck Retrofit,
(iv) Express Bus and Carpool Lanes,
(v) Pedestrian Priority Zones,
(vi) Traffic Flow Improvements for Arterials,
(vii) Employer Based Programs,
(viii) Park-and-Ride and Fringe Parking,
(ix) Alternate Work Schedules.

On July 28, 1980, the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) responded to these conditions.

II. State Submittal

The State's July 28, 1980 submittal provides information related to

transportation control measures contained in the SIP for the New York City metropolitan area. The submittal consists of: A transmittal letter to EPA; a July 29, 1980 letter with attachments from the Tri-State Regional Planning Commission (Tri-State) to the NYSDEC containing information in response to conditions (e)(1), (2), (3), (6) and (7); an August 1, 1980 document prepared by the New York State Department of Transportation (NYSDOT) entitled, "Item #1 SIP Commitments: Status of Projects" which addresses condition (e)(1), a document prepared by the NYSDOT in response to condition (e)(5) regarding SIP revision criteria and procedures for changing projects; and an August 5, 1980 memorandum from the NYSDEC containing a page inadvertantly excluded from the July 28, 1980 submittal. The following sections summarize the information presented in these documents and provide EPA proposed findings as to their adequacy with regard to each condition:

A. *Key milestones associated with projects relating to transportation control measures which are part of the SIP* (condition (e)(1)).

1. Content

The State submittal with regard to this condition consists of a document prepared by the NYSDOT entitled "Item #1 SIP Commitments: Status of Projects" and a letter from Tri-State. The NYSDOT document consists of a brief discussion of the transportation project development process and the milestones that have been selected to implement and measure progress of the various projects contained in the SIP. Estimated milestone completion dates for each project in the SIP for which the NYSDOT is responsible are also provided. The NYSDOT notes that it is committed to implementing SIP projects, but it asserts that, due to unforseen circumstances, it might not be possible to meet all completion dates. The criteria and procedures that will be followed if a date is not met are described in the discussion of condition (e)(5) relating to SIP revision.

The NYSDOT uses a slightly different set of milestones for projects than the milestones suggested by EPA in its December 10, 1979 **Federal Register** notice. Those projects for which NYSDOT has responsibility do not include the EPA suggested financial milestone concerning the date that the project would be included in the State's Section 105 grant submission to the Federal Highway Administration. The State claims that, while the Section 105 program generally is a more accurate means of tracking projects than the region's Transportation Improvement Program, it is not as good a means of tracking most of the SIP projects. Various reasons are given to support this claim.

The NYSDOT projects also do not include the financial milestone calling for the date of inclusion of a project in State and local budgets. The NYSDOT document notes that, with the exception of some park-and-ride projects and the Westchester County vanpool project, SIP projects do not necessarily require local matching funds. Therefore, the State contends that the appearance of these projects in a local budget is not necessary for implementation. Regarding the State budget, highway projects are not listed individually but are included as lump sum amounts for different types of projects. For highway projects it is State policy to match all federal money available with State funds.

The information relating to this condition contained in the Tri-State letter relates to SIP projects for which agencies other than NYSDOT have responsibility. The material does not provide any discussion concerning the development, selection, and planned utilization of the milestones. Project milestones are provided but some EPA suggested milestones are not used for all transportation control measures.

Table 1 presents milestones and completion dates as contained in the submittal for permanent and demonstration projects.

2. Adequacy

EPA's review focused on whether or not suitable milestones were provided for SIP projects. Generally, the milestones submitted by the State are adequate for use as a guide in implementing projects and for tracking their implementaion progress. However, milestones for some projects were missing from the State submittal. This information should be provided to EPA during the public comment period. The State should also be aware that as work towards project implementation proceeds, milestones might need to be refined or created.

B. *An improved program of study for the broader application of certain transportation control measures and other improvements to the study program* (condition (e)(2)).

1. Content

The State submittal with regard to this condition consists of:

- A brief description outlining the process by which the improved program of study was developed;
- A brief description of how the existing program of study will be used to develop additional studies for the broader application of control measures;
- A summary of new studies or previously proposed studies for which EPA Section 175 or Urban Mass Transportation Administration Section 8 funds have been allocated; and
- The New York State air quality program schedule for development of the required July 1, 1982 SIP revision. The new studies included in the SIP for each measure are listed in Table 2.

In addition to developing a program of study for the broader application of control measures, the condition required the submittal of additional information on studies contained in the 1979 SIP revision. The State submittal provides some additional information about the existing studies.

2. Adequacy

A program of study for the broader application of certain transportation control measures is critical for developing the 1982 SIP revision. Studies also are essential for determining a measure's "reasonableness" and opportunities for its application beyond those contained in the 1979 SIP revision. Based on review of the State submittal, EPA proposes to find the program of study for the broader application of measures to be adequate.

The State's improved program of study is not a final program but, in part, calls for the utilization of results of studies which are underway or proposed in order to determine where further study is needed. Although this approach is acceptable, the State submittal could have been more comprehensive. For example, the State could have added to the SIP several existing and proposed transportation studies contained in the area's Unified Planning Work Program because of their ability to lead to the broader application of control measures. Also, most of the studies included in the submittal are not really "new" but were previously included in the SIP. Thus, EPA questions their inclusion in this table of "new" studies. In addition, several of the studies have completion dates in 1982. EPA questions how these studies will be used for preparation of a timely 1982 SIP revision.

Except for information on how some existing studies will be used to identify new study needs, the State's submittal does not provide information on their anticipated products and their relationship to control measures, projects and other studies. Moreover, some studies have progressed since the 1979 SIP revision was prepared. This should have enabled the State to

develop supplemental study milestones for determining the reasonableness of application of control measures. For example, as part of a capacity management study being performed by the New York City Department of Transportation a demonstration project is soon to be implemented on the East River Crossings. The milestones related to this demonstration project and follow-up activities should be developed. EPA understands that work is being performed to obtain additional information on this and other studies and encourages the State to submit this information to EPA during the public comment period so that it may be incorporated into the SIP.

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Table 1. Project Milestones and Implementation Dates

Measure	Milestone	Implementation Date
A. Land Use and Development Controls		
Permanent Projects (New York City):		
1. Zoning revision for off-street parking restrictions in Manhattan central business district	Amend and implement zoning ordinance. Comment: During the last quarter, numerous meetings have been held to negotiate the proposed zoning text amendment for off-street parking with all interested parties. The amendment is being revised in accordance with the federal district court order requirements. Parties to the lawsuit have agreed to an extension of the deadline for implementation in order to finalize the zoning amendment on off-street parking.	Estimated implementation date to be available shortly.
2. Repeal all parking restrictions under 6 NYCRR Part 203 (in Manhattan after zoning revision)	(i) Prepare revision to Part 203. (ii) Prepare hearing notice for (iii) State Bulletin and newspapers. (iv) Publish hearing notice in State Bulletin and newspapers. (v) Hold public hearing. (vi) Hearing Officer prepare report and revised rule for submittal to Environmental Board. (vii) Environmental Board approval File with Secretary of State and Legislature. (viii) Submit to EPA.	Elapsed time after zoning amendment is made (measure A.1): (i) 1 month (ii) 1 month (iii) 2 months (iv) 3 months (v) 4 months (vi) 5 months (vii) 6 months (viii) 6 months
Demonstration Projects:		
None		

Measure	Milestone	Implementation Date
B. Parking Restrictions		
Permanent Projects (New York City):		
1. Reduction of legal on-street parking space in Midtown core	Reduction of parking space	Implemented
2. Referral procedures for out of state violators	Not provided	Not provided
3. Seek scofflaw vehicle transfer restriction	Not provided	Not provided
4. Seek legislation to control scofflaw vehicles	The City of New York has sought sponsors for and actively supported several pieces of legislation to fulfill this requirement during the 1979 and 1980 State legislative sessions. If unsuccessful this year, the City will again seek passage of the necessary legislation next year.	1980, 1981
Demonstration Projects (New York City):		
1. Reduction of parking in Downtown and Midtown Manhattan	(i) Removal of authorized parking from 5th Avenue. (ii) Removal of authorized parking from Madison Avenue. (iii) Removal of authorized parking in Lower (Downtown) Manhattan in conjunction with the Lower Manhattan Transportation Management Study.	(i) Implemented (ii) October 1980 (iii) Planning underway, no implementation date provided

Measure	Milestone	Implementation Date
C. Freight Transportation		
Permanent Projects (New York City):		
1. Trailer on Flat Car (TOFC) terminal at Hidge Bridge with increased clearances to the north		
a. TOFC Terminal	(i) Completion of Draft Environmental Impact Statement	(i) June 1981
	(ii) Preparation of Final Environmental Impact Statement and Design Approval	(ii) December 1981
	(iii) Completion of Right of Way Acquisition	(iii) December 1982
	(iv) Completion of Plans, Specifications and Estimates	(iv) June, 1983
	(v) Beginning of Construction	(v) January 1983
	(vi) End of Construction	(vi) June 1985
	Comment:	
	The Oak Point Link is estimated to cost between $40 and $65 million in 1980 dollars depending upon the specific routing selected. Funds already committed to the	

Measure	Milestone	Implementation Date
	project include $37.25 million budgeted by the Port Authority of New York and New Jersey and $12 million authorized by the New York State Legislature under the 1979 Energy Conservation through Improved Transportation Bond Act. If the existing funds committed are insufficient to complete this project, the New York State Department of Transportation will seek the funds needed from a variety of additional sources such as Conrail, and the Federal Railroad Administration.	
b. increased clearances	Milestones to provide adequate clearances for the 18 bridges provided.	All clearances will be completed by 1982.
2. Rail link to Brooklyn Waterfront	Establish rail link	Implemented
3. Designation of truck routes	Not provided	Not provided
Demonstration Projects: None		
D. Express Bus and Carpool Lanes		
Permanent Projects (New York City):		
1. Fulton Street transitway	(i) Inclusion in Transportation Improvement Program	(i) 1980
	(ii) Inclusion in state and local budgets	(ii) 1980
	(iii) Endorsement by principal elected officials:	(iii) 1980
	(iv) Endorsement by Transportation Coordinating Committee(s):	(iv) 1980
	(v) Presentation to community or borough boards:	(v) 1980
	(vi) Completion of preliminary engineering studies:	(vi) Not available
	(vii) Initiation of construction:	(vii) 1980-1981
	(viii) Completion of construction or implementation	(viii) Not available

Measure	Milestone	Implementation Date
2. Continue Increased Level of Enforcement of Express Bus Lanes on Manhattan CBD Streets	Increased enforcement	Implemented
3. Improve bus lane signing on Manhattan Streets	Improved signing	Implemented
4. Rehabilitate FDR Drive	Completion of construction for all improvements	December 1982
5. Rehabilitate upper level of Queensboro Bridge	Comment:	February 1981

Rehabilitation of the Upper Level of the Queensboro Bridge would allow its use by buses which are currently restricted to the lower level where traffic often moves more slowly. The May, 1979 SIP called for the rehabilitation of the upper level of the Queensboro Bridge to begin but gave no date by when this project would be completed.

In late 1979 when the control measures were evaluated it was believed that the upper level could be rehabilitated for $18,000,000 and that it might be possible to begin work on this project during 1980. However, an April 1980 review by NYSDOT and its engineering consultant has indicated that the Queensboro Bridge is in a far more deteriorated condition than has been believed previously. As a result

Measure	Milestone	Implementation Date
	of this review, the cost estimate for rehabilitation of the bridge has increased from $30,000,000 to $120,000,000. Given the need to undertake other major structural work on the Queensboro Bridge and given the anticipated amounts of available federal discretionary bridge rehabilitation funds, the April 1980 estimate anticipated that the strengthening of the upper level to allow bus use would not begin until 1990 and would not be completed until 1995. Because of the importance of the upper level deck rehabilitation as a SIP project, NYSDOT is currently re-examining the proposed phasing of the Queensboro Bridge rehabilitation projects to determine whether it would be practical to advance the rehabilitation of the upper deck ahead of some of the other work. Upon completion of this review, the NYSDOT will provide EPA with an estimated schedule for the Queensboro Bridge rehabilitation.	
Demonstration Projects (New York City):		
1. Additional bus priority lanes on 59th - 60th Street corridor and another site to be identified on the east side of Manhattan.	(i) Extension of 2nd Ave. Bus lane (ii) Milestones not provided for 59th - 60th St. corridor	(i) Implemented 1979 (ii) Not provided

Measure	Milestone	Implementation Date
E. Pedestrian Priority Zones		
Permanent Projects (New York City):		
1. Broadway Plaza	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials.	(ii) Completed
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) Completed
	(iv) Public Involvement	(iv) Completed
	(v) Completion of Preliminary Engineering	(v) December 1980
	(vi) Initiation of of construction	(vi) Spring 1981
	(vii) Completion of construction	(vii) December 1982
2. 165th Street Mall	Complete mall	Implemented
3. Fulton Mall	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials	(ii) Completed
	(iii) Endorsement by New York City Transportation Coordinating Committee - Phase I	(iii) Completed
	(iv) Endorsement - Phase II	(iv) 1980-1981
	(v) Public Involvement	(v) Completed
	(vi) Completion of Preliminary Engineering	(vi) Completed
	(vii) Initiation of construction	(vii) Completed
	(viii) Completion of construction	(viii) May 1981
4. Nassau Street Mall	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials	(ii) Not Available
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) Completed

Measure	Milestone	Implementation Date
	(iv) Public Involvement	(iv) Completed
	(v) Completion of Preliminary Engineering	(v) Completed
	(vi) Initiation of construction	(vi) December 1980
Permanent Projects (Nassau County):		
1. Freeport Mall	Complete Mall	Implemented
2. Hempstead Semi-Mall	Complete Mall	Implemented
Permanent Projects (Westchester County):		
1. White Plains Street Mall	Complete Mall	Implementation begun
2. New Rochelle Main Street Mall	Complete Mall	Implemented
3. Peekskill Division Street Semi-Mall	Complete Mall	Implemented
F. Traffic Flow Improvements		
Permanent Projects (New York City):		
1. Computerization of signal system	(i) Inclusion in State and local budgets	(i) 1980-1981
	(ii) Endorsement by principal elected officials	(ii) 1980-1981
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) 1980-1981
	(iv) Initiation of construction	(iv) 1980-1981
	(v) Completion of construction	(v) 1982-1983

Measure	Milestone	Implementation Date
Permanent Projects (Suburban Counties):		
2. Continued advancement in suburban areas of computer signalization and spot Transportation System Management and Traffic Operations Program to increase Capacity and Safety (TOPICS) improvements.	Most milestones presented, others will be provided shortly.	Implementation begun
Demonstration Projects (New York City):		
1. Van Wyck Expressway traffic management	Project Approval Completion of Installation	Completed February 1981
Permanent Projects (Nassau County):		
1. Northern Long Island corridor Integrated Motorist Information System on Long Island Expressway, Northern State Parkway, and Grand Central Parkway	(i) Inclusion in annual element of Transportation Improvement Program (ii) Completion of plans (iii) Completion of installation	(i) March 1981 (ii) March 1981 (iii) December 1982
G. Alternate Work Schedules		
Permanent Projects (New York City):		
1. Port Authority Program in Manhattan	Implemented Program	Implemented

Measure	Milestone	Implementation Date
Permanent Projects (Westchester County):		
1. Westchester County Government Employees Staggered Work Hours Program	Implement program	Implemented
H. Bicycle lanes and Storage Facilities		
Permanent Projects: None		
Demonstration Projects (New York City):		
1. Implement 4 bikelanes in New York City in commuter corridors of Brooklyn, Staten Island, Queens, and Manhattan	(i) Completion of all bike lanes except Lower Manhattan.	(i) Implemented
	(ii) Completion of Lower Manhattan bike-lane.	(ii) Will be implemented shortly
2. North Bronx Bikeway	Completion of bikeway	Implemented
Permanent Projects (Westchester County):		
1. Putnam Division Railroad Right of Way	(i) Inclusion in Transportation Improvement Program	(i) Completed
	(ii) Inclusion in State and local budgets	(ii) Completed
	(iii) Endorsement by principal elected officials	(iii) Completed
	(iv) Endorsement by Mid-Hudson South Transportation Coordinating Committee	(iv) Completed
	(v) Presentation to public	(v) Completed

Measure	Milestone	Implementation Date
2. Bronx River Parkway	(i) Inclusion in Transportation Improvement Program	(i) 1982
	(ii) Endorsement by principal elected officials	(ii) Completed
	(iii) Endorsement by Transportation Coordinating Committee	(iii) Completed
	(iv) Presentation to public	(iv) Completed
	(v) Initiation of construction	(v) 1982
	(vi) Completion of construction	(vi) 1982-83
3. Route 117	Completion of bikeway	Implemented
I. Employer Based Programs		
Permanent Projects:		
None		
Demonstration Projects (Nassau County):		
1. County-wide major employers university program	Not provided	Not provided
Demonstration Projects (Westchester County):		
1. Westchester County Commuter Vanpool Program	(i) Project placed on transportation Improvement Program/Annual Element	(i) Completed
	(ii) Agreement reached on contract between NYSDOT and Westchester Vanpool group	(ii) December 1980
	(iii) Purchase and delivery of vans	(iii) March 1980

Measure	Milestone	Implementation Date
J. Private Car Restrictions	Not applicable	Not applicable
Permanent Projects:		
None		
Demonstration Projects:		
None		
K. Park-and-ride and Fringe Parking		
Permanent Projects (Suburban Areas):		
1. Construct expand or upgrade at least 14 park-and-ride lots providing at least 3000 new spaces by 1981		
a. lots completed since 1977	Completion of 1202 spaces.	Implemented
b. lots under construction	Completion of 2499 spaces.	June 1981
Demonstration Projects (New York City):		
1. Implement at least one parking facility with feeder transit near Manhattan Central Business District	Implementation is dependent on the findings of the CBD Periphery Parking Study.	Not Available
2. Implement park-and-ride lots at 5 locations in outer boroughs of New York City:		
a. Shea Stadium	Implementation	Implemented
b. South Beach, Staten Island	Implementation	Implemented
c. Rosedale, Queens	Implementation	Implemented

Measure	Milestone	Implementation Date
d. Staten Island Mall	Implementation	Fall 1980
e. Fifth site	A fifth site will be selected as part of the CBD Periphery Parking Study. Implementation, with City funds, is dependent on the results of this study.	Not Available

Table 2. New Studies

Measure	Study	Schedule	
		Start Date	Completion Date
Freight transportation	New York City		
	1. Manhattan Goods Movement	July 1980	October 1981
	2. Truck Route Study (Phase II)	October 1980	April 1981
Express bus and carpool lanes	New York City		
	1. Crosstown Transit Improvements	October 1980	April 1980
	Nassau County		
	1. RACM Analysis	October 1980	September 1981
Pedestrian priority zones	New York City		
	1. 53rd St. Transitway	October 1980	September 1981
Alternate work schedules	Nassau County		
	1. Work Schedules and Bike Studies	July 1980	June 1981
	2. Staggered Work Hours Feasibility	August 1980	July 1981
Bicycle lanes	Nassau County		
	1. Work Schedules and Bike Studies	July 1980	June 1981
Employer based programs	New York City		
	1. Transit Employer Incentives	March 1980	April 1981
	Nassau County		
	1. Data Base for Employer Programs	July 1980	July 1981
	Transportation Brokerage		
	Regional		
	1. Transportation Brokerage	July 1980	July 1981

Measure	Study	Schedule	
		Start Date	Completion Date
Private car restrictions	New York City		
	1. Private Car Restrictions Policies (Phase II)	October 1980	April 1982
	2. Institutionalizing/Integrating Air Quality	October 1980	September 1982
	3. Private Car Restriction Policy (Phase I)	July 1980	January 1982

BILLING CODE 6560-38-C

C. *Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling"* (condition (e)(3)).

1. Content

The State submittal with regard to this condition consists of a brief description of how this measure was classified in the SIP as being "not reasonably available." This discussion mentions that the measure was classified as "not reasonably available" even though the SIP contained narrative material describing it as "reasonable" in certain counties of the New York City metropolitan area. Upon further evaluation the State has proposed to recategorize this measure on a geographical basis in the following manner as was done in the SIP:

New York City—not reasonably available
Nassau County—reasonably available
Suffolk County—not reasonably available
Rockland County—reasonably available
Westchester County—reasonably available

The Tri-State Regional Planning Commission, which has a lead role in the SIP revision process, will coordinate the reevaluation of these determinations with each county and transportation coordinating committee. This activity will be performed through the use of a detailed set of criteria developed by the NYSDEC to determine reasonableness of the measure. Tri-State, in conjunction with NYSDEC, has requested that counties and principal cities in the area review their classification of this strategy and provide adequate justification if the strategy is found to be not reasonably available. Copies of these letters are included in the submittal. Based on the responses received, the NYSDEC will submit a revision to the SIP to reclassify this measure, as appropriate.

2. Adequacy

EPA's review of this condition focused upon the adequacy of the additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling." The State submittal gives little in the form of additional documentation in this regard. What has been provided is the basis upon which the necessary evaluation will proceed. The criteria to determine reasonableness concentrates on regulatory controls; EPA suggests that consideration also should be given to voluntary controls. Otherwise, the criteria and procedures to be utilized appear to be adequate. If a final finding of unreasonableness is made, the State should submit a formal SIP revision offering sufficient evidence for making this determination. If the measure is found to be reasonably available, commitments to study or implement it should be incorporated in the SIP. In addition, specific studies of the measure should be incorporated into the area's Unified Planning Work Program. Any finding should be reviewed and endorsed by the appropriate elected officials, transportation coordinating committee and Tri-State.

D. *Criteria and procedures for revising and making changes to transportation projects contained in the SIP* (Condition (e)(5)).

The State submittal with regard to this condition focuses on developing criteria and procedures for revising and making changes to transportation projects contained in the SIP. This condition was promulgated primarily because the SIP did not fully describe a process for determining when and how to change projects contained therein. Criteria to determine what constitutes a "significant change" to a SIP project, which in turn necessitates the development of justification for a SIP revision, were not adequately described in the 1979 SIP revision. Also, the procedures for changing a project's status from "reasonably available" to "not reasonably available" were not fully developed. In addition, the State's proposed procedure to delete a SIP project from the Transportation Improvement Program if no claim of emission reduction credit was made for that project was found to be unacceptable by EPA.

In its submittal, the State stresses that the SIP revision process must not be so cumbersome as to delay development of the 1982 SIP revision. The procedures described utilize the ongoing transportation—air quality planning process, including review by the appropriate citizen advisory committee. Any change to a project's milestones or classification of reasonableness will be subject to the procedures. The State submittal includes a commitment to develop for inclusion in the SIP substitute actions sufficient to offset any adverse air quality impact of a change to a project that results in the inability of the State to continue making reasonable further progress towards attainment of standards. Where a change to a project does not jeopardize reasonable further progress and adequate justification for the change is provided, it also will be proposed to EPA as a SIP revision.

Only "significant" changes to a project will be subject to a full justification and air quality analysis. A change will be considered "significant" if any of the following criteria are met:

- The schedule for final implementation (not intermediate steps) has to be postponed by more than 15 months from the date specified in the SIP;
- A change of greater than 10 percent is made in a specific characteristic of a project that is likely to change the project's impact on air quality. Such characteristics could be the cost for implementing a program commitment, the miles of a bikeway or the square footage of a pedestrian mall; or
- The State or responsible implementing agency does not intend to, or cannot, carry out a SIP project.

An increase in cost will not necessitate a SIP revision so long as the action is still expected to meet the commitment and schedule defined. If a change in cost requires a project modification that exceeds any of the aforementioned criteria, then cost will be cited as the justification called for in the procedure.

2. Adequacy

EPA's review of this condition examined the adequacy of the criteria and procedures for making changes to transportation projects contained in the SIP. A primary objective of EPA in establishing this condition was to keep the SIP development process dynamic and flexible, yet at the same time honoring previous commitments and ensuring that measures necessary to ensure attainment of air quality standards as expeditiously as possible are contained in the SIP. Generally, EPA found the State submittal with regard to this condition to be acceptable. However, the criteria could be improved.

The criterion for defining when a delay in project implementation is "significant" appears to be unduly lenient and could jeopardize the achievement of reasonable further progress towards attainment of air quality standards. EPA suggests that consideration be given to changing the threshold time period for this criterion from 15 months to 6 months. This time period is within the annual time period used by the State to determine if reasonable further progress is achieved. Using a 6-month delay as the threshold for assessing whether a change is "significant" will help ensure against the possibility that project delays will jeopardize achievement of reasonable further progress.

EPA also suggests that the State establish time periods for implementing the procedures. For example, a suggested period of four months appears

to be reasonable for the time period from when a SIP revision is found to be necessary because of a change in a project and when the revision is submitted to EPA. Other time periods which should be defined include those for determining whether a change to a project is "significant." Such schedules should consider the time requirements needed to work within the integrated transportation—air quality planning process.

E. *Criteria and procedures for revising and making changes to transportation studies contained in the SIP* (condition (e)(6)).

1. Content

The State submittal with regard to this condition does not present any formal criteria and procedures for revising and making changes to transportation studies contained in the SIP. The State asserts that, since each study is unique and has a particular objective, scope, cost, schedule, and status, little benefit would be dervied from developing general criteria. Instead, the State proposes that a SIP Study Committee be established consisting of representatives of EPA, the Urban Mass Transportation Administration, the Federal Highway Administration, NYSDEC, NYSDOT, Tri-State and study sponsors. Any proposed change to a study would be presented to the Committee by the sponsoring agency along with a demonstration that the proposed change would not significantly affect reasonable further progress toward attainment of air quality standards.

The Committee would act within 60 days of receiving a proposed study change and provide the sponsor with a determination on whether or not the change was acceptable as submitted or acceptable with conditions. The sponsor would have 30 days to respond to the conditions. Once a study change has been approved by the Committee, it would be submitted to the appropriate transportation coordinating committee, citizen advisory committee, and to the Tri-State Standing Committee on Transportation for review and approval. All approved changes will be incorporated into the Unified Planning Work Program as that document is updated.

2. Adequacy

Generally, EPA finds the State's proposal to establish a SIP Study Committee instead of developing general criteria for changing studies in the SIP to be adequate. This procedure should ensure that the SIP program of study will remain viable. However, EPA is concerned that there is no definition of what is a significant effect on reasonable further progress. Before the Committee could act on a change, this term would have to be fully defined and agreed to by the membes of the Committee. EPA suggests that criteria and procedures similar to those which will be used by the State for evaluating changes to SIP projects also be applied to studies. In addition, when determing whether a change to a study is acceptable, the Committee must consider its impact on the ability of the State to prepare the 1982 SIP revision and any other future revisions.

F. *Identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP* (e)(7)).

1. Content

The State submittal with regard to this condition identifies three primary transportation related elements of the SIP and the resources necessary to carry them out:

- Implementation and demonstration actions

The submittal provides three tables which list the cost and funding source for various SIP projects. Some information on resources was unavailable to the State and thus not provided. No cost information was provided for projects which already have been implemented.

- Special SIP and relate studies

The submittal provides a table which summarizes the resources available, according to funding source, for studies listed as "committed" or "underway" in the 1979 SIP. This table includes all studies that were initiated before July 1980. Studies that are not underway, but which have committed funding, are presented in the table. The submittal also provides another table which summarizes, by funding source, costs for SIP and related studies scheduled to start July 1, 1980 or later. These studies are to be primarily composed of the Section 175 Phase II and Urban Mass Transportation Administration Section 8 grants contained in the 1980–1981 Unified Planning Work Program.

- Transportation planning process

The submittal provides a table which summarizes the necessary funding available for the transportation planning process. This funding is also identified in the 1980–1981 Unified Planning Work Program.

2. Adequacy

Generally, EPA finds the identification of resources to be adequate. However, a major shortcoming is the lack of identification of the manpower resources being committed to by agencies responsible for SIP development and implementation. Since some agencies have a large degree of responsibility and limited staff available, an assessment of resource adequacy would be beneficial and should be submitted by the State during the public comment period.

A major problem is that the submittal identifies only the total dollar amounts available for the study program. Funding available for individual studies is not identified. However, the State's May 21, 1980 proposed revision to the SIP did provide most of this detailed financial information relating to studies (see 45 FR 56369, August 25, 1980). The submittal does not provide any information related to the heavy duty gasoline truck retrofit measure. However, EPA is providing the State with $300,000 in Clean Air Act Section 105 funds to determine the reasonableness of this measure. These funds should be sufficient to accomplish this effort. If the study finds this measure to be reasonable, the State will then have to identify the necessary resources for its implementation.

III. EPA Proposal

EPA proposes to find that the State's August 2, 1980 submittal adequately meets the conditions on approval of the New York SIP promulgated at 40 CFR 52.1674 (e) (1), (2), (3), (5), (6) and (7). The purpose of requiring the submittal was to improve the existing SIP by identifying and commiting to a control program adequate to prepare an acceptable 1982 SIP revision and to implement the 1979 SIP revision.

IV. Public Comment

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan for the New York City metropolitan area should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110 and 172 of the Clean Air Act and applicable EPA requirements in 40 CFR Part 51. This current SIP revision request was submitted to EPA in accordance with the appropriate CFR requirements.

Section 174(b) of the Clean Air Act requires that SIP revisions be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under Section 134 of Title 23 of the

United States Code. EPA particularly invites comments from the Tri-State Regional Planning Commission (the Metropolitan Planning Organization for the New York City metropolitan area), its committees, and any other transportation planning agencies or organizations which have SIP-related responsibilities.

Comments received on or before January 21, 1981, 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.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, 7601))

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

Dated: October 15, 1980.

[FR Doc. 80-36446 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-8-FRL 1676-4]

Approval and Promulgation of State Implementation Plans; Revision to Wyoming Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units. The State's mass emission limit remains unchanged. EPA proposes to approve the State's revision and solicits comments on whether this revision meets the requirements of 40 CFR Part 51 and the Clean Air Act.

DATE: Written comments should be submitted on or before December 22, 1980.

ADDRESSES: Written comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado, 80295.

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

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Chief, Planning and Operations Section, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-3711.

SUPPLEMENTARY INFORMATION: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units upon petition from the operator that the unit is unable to meet the otherwise applicable opacity limit (20 percent) but is meeting the applicable mass emission limit. This provision applies to fuel burning units with heat input of greater than 2500×10^6 Btu per hour, and the newly established opacity limit may not exceed 40 percent.

Since the proposed exemption requires that the mass emission limit be met by the source, this provision will not result in increased emissions and will not jeopardize attainment and maintenance of the national ambient air quality standards in Wyoming.

Interested persons are invited to comment on the revision and whether it was adopted and submitted in accordance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 (Requirements for the Preparation, Adoption, and Submission of State Implementation Plans). Comments submitted on or before December 22, 1980 will be considered. EPA finds good cause for limiting the comment period to 30 days because the revision is administrative in nature and would not result in a change in emissions from any source.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410.)

Dated: October 22, 1980.

Roger L Williams,

Regional Administrator.

[FR Doc. 80-36451 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 60

[AD-FRL-1551-7]

Review of Standards of Performance for New Stationary Sources: Phosphate Fertilizer Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of Standards.

SUMMARY: EPA has reviewed the standards of performance for control of total fluoride emissions from phosphate fertilizer plants (40 FR 33152). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's intent not to undertake revision of the standards at this time.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: *Comments.* Send comments to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-80-10.

Docket: Docket No. A-80-10, containing supporting information used in reviewing the standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

Background Information Document. The document "Review of New Source Performance Standards for Phosphate Fertilizer Industry" (EPA report number EPA-450/3-79-038) is available upon request from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711, telephone (919) 541-2777.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley T. Cuffe, (MD-13) U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone (919) 541-5295.

SUPPLEMENTARY INFORMATION:

Background

Fluoride was the only pollutant other than the criteria pollutants, specifically named as requiring Federal action in the March 1970 "Report of the Secretary of Health, Education, and Welfare to the

United States (91st) Congress." The report concluded that "inorganic fluorides are highly irritant and toxic gases" which, even in low ambient concentrations, have adverse effects on plants and animals. The United States Senate Committee on Public Works in its report on the Clean Air Amendments of 1970 (Senate Report No. 91–1196, September 17, 1970, page 9) included fluorides on a list of contaminants that have broad national impact and require Federal Action.

The "Engineering and Cost Effectiveness Study of Fluoride Emissions Control" (contract EHSD 71–14), published in January 1972, listed the phosphate fertilizer industry among the largest fluoride emitters in the United States, accounting for nearly 14 percent of the total soluble fluorides emitted annually at that time.

On October 22, 1974 (39 FR 37602), under section 111 of the Clean Air Act, and amended, the Administrator proposed standards of performance for five new affected facilities within the phosphate fertilizer industry as follows: Wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

The regulation, promulgated on August 6, 1975 (40 FR 33152), limits total fluoride emissions to the following weights per unit of P_2O_5 input: Wet process phosphoric acid, 0.01 g/kg (0.02 lb/ton); superphosphoric acid, 0.005 g/kg (0.01 lb/T); diammonium phosphate, 0.03 g/kg (0.06 lb/T); triple superphosphate and granular triple superphosphate, 0.1 g/kg (0.20 lb/T). Emission limits for granular triple superphosphate storage facilities are 2.5×10^{-4} g/hr per kilogram stored (5×10^{-4} lb/hr ton). There is no opacity regulation.

The Clean Air Act Amendments of 1977 require that the Administrator of EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years (Section 111(b)(1)(B)). This notice announces that EPA has completed a review of the standard of performance for phosphate fertilizer plants and invites comment on the results of this review.

Findings

Industry Growth Rate

During the years 1974 through 1979, the production capacity of the domestic fertilizer industry increased as follows: For wet process phosphoric acid, 46 percent; superphosphoric acid, 66 percent; diammonium phosphate, 25 percent; and triple superphosphate, 15 percent. Superphosphoric acid contains much less water per unit of P_2O_5 than does wet process phosphoric acid; therefore, the resulting saving in weight and shipping costs has encouraged increasing the capacity for manufacturing superphosphoric acid. Also, superphosphoric acid is less corrosive than wet process phosphoric acid and can be stored with less deposition of impurities. Additions to triple superphosphate capacity have decreased because of the recent trends toward liquid fertilizers, which are easier for the farmer to apply.

The estimated growth from 1980 to 1985 in domestic phosphate fertilizer plants is limited, for the following reasons. Facilities for the manufacture of phosphate fertilizer from phosphate rock were overbuilt in the 1970's and are only now approaching full utilization of production capacity. The use of phosphate fertilizer in the United States decreased about 9 percent in 1978, partly because of alleged overfertilization of some soils. Potential production increases outside the United States may reduce exports.

Control Technology

Current Control Technology

There have been no notable improvements in the design of aqueous scrubbers since the present standards were promulgated. Some improvement has been reported in the operation of the scrubber with less plugging and with reduced downtime when plugging occurs.

Emerging Control Technology

The gypsum pond is considered to be one of the major fluoride emission sources in a phosphate fertilizer plant. However, the pond emits a relatively large weight of fluoride from an area that is very great compared with that of the other sources. Nevertheless, pond contribution to ground level concentration of fluorides is evidently small, as indicated by the effectiveness of scrubber controls in reducing high ground level concentrations.

An interesting recent development is claimed to permit eliminating about half of the pond area with a resulting pond fluoride emission reduction of about 50 percent. This reduction is made by shifting the plant cooling load from the pond to a closed-circuit cooling tower. The cooling tower in turn supplies a fluoride scrubbing system with water. Fluoride evolution from this scrubbing system has been reduced at one of two plants by partial recovery of fluoride as salable 25 percent fluosilisic acid and by liming to further prevent or reduce fluoride emissions. It is not practical to depend on liming alone, however, because of the costs of the large tonnage of lime that would be required. These processes that combine pond area reduction with closed cooling tower, scrubber, and liming systems now appear to be in their development stage. More experience is needed to determine their costs and performances.

The hemihydrate process, an old process revived by the Japanese, makes wet process phosphoric acid by crystallizing calcium sulfate twice in different forms. The final crystal is the familiar dihydrate, but this product contains very little phosphate in the crystal. This decrease in the phosphate content of the gypsum crystals increases the yield of phosphoric acid and also produces a purer and more salable gypsum. In addition, 30 percent or more of the fluoride originally present in the phosphate rock is said to be recoverable in salable form. The hemihydrate process has not been demonstrated in the United States. Domestic rock causes difficulties in this process, and the hemihydrate process would have to be investigated fully to determine whether these difficulties can be overcome.

One plant makes triple superphosphate directly from wet process phosphoric acid and calcium carbonate. The only potential for fluoride emissions arises from the fluoride content of the wet process phosphoric acid. This might be advantageous in a local situation; but the balance of the potential fluoride evolution would only be transferred elsewhere to wherever the wet process acid was made from phosphate rock.

One fertilizer plant has added a dry absorption process that is due to come on line in 1980. In this process a dry absorbent is continuously injected into the plant tailgas stream. The dry solid adsorbs gaseous fluorides, and both the original and the added particulates are then removed in a following baghouse. Operating data will be needed to assess this new process.

Results Achievable With Demonstrated Control Technology

Emission source test results were available for one of the emerging control technologies. Source tests for the plant that manufactures triple superphosphate directly by reacting calcium carbonate and wet process phosphoric acid showed fluoride emissions just under the new source performance standard of 0.1 g/kg P_2O_5 input (0.20 lb/T).

Conclusions

Based on the above findings, EPA concludes that the existing standards of

performance for fluorides are still appropriate. There have been no notable improvements in aqueous scrubber control technology. Further significant fluoride reductions by scrubbing are unlikely if ordinary gypsum pond water is used. Emerging technologies or their variants may later permit further reductions in fluoride emissions.

EPA is studying radioactive particulate emissions from the phosphate fertilizer industry. If control is found advisable, emission regulations will be developed by the Office of Radiation Programs for this source under Section 112 of the Clean Air Act.

Public Participation

All interested persons are invited to comment on this review. Comments should be submitted to the Central Docket Section as stated under "Addresses" above.

Dated: November 17, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-36452 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 162

[OPP-00133; PH-FRL 1677-4]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to present decision options being considered by the agency to conclude the rebuttable presumption against registration (RPAR) on strychnine. The meeting will be open to the public.

DATES: Thursday and Friday, December 11 and 12, 1980, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the: Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel (TS-766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7560).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Presentation of the decision options being considered by the agency to conclude the RPAR on strychnine.

2. Completion of any unfinished business from previous Panel meetings.

3. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting: Homer Hall, Special Pesticides Review Division (TS-791), Rm. 724J, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7438).

Any member of the public wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than December 9, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies fo submit to ensure appropriate consideration by the panel.

(Sec. 25(d), as amended, 92 Stat. 819; (7n U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: November 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36453 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PP 9E2241/P161; PH-FRL 1677-5]

Calcium Hypochlorite; Exemption from Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for residues of the chemical calcium hypochlorite. This proposal was submitted by Interregional Research Project No. 4 (IR-4).

DATE: Written comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Emergency Response Section, Process Coordination Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202-426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 9E2241 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho, Maine, Michigan, and New York.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR Part 180 by the establishment of an exemption from the requirement of a tolerance for residues of the chemical calcium hypochlorite in or on the raw agricultural commodity potatoes.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology and other scientific data considered in support of the proposed exemption were a rat acute oral LD_{50} study of 0.85 gram (g) (0.64-1.3 g)/kilogram (kg). Calcium hypochlorite is currently exempted from a tolerance requirement under 40 CFR 180.1001(c) as a sanitizing and bleaching agent when used in accordance with good agricultural practices as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

No actions are currently pending against continued registration of this chemical.

There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The Agency has determined that the proposed exemption from the requirement of a tolerance will protect the public health. Therefore, it is proposed that 40 CFR Part 180 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein, may request by December 22, 1980 that this

rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "PP 9E2241/P161". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for calcium hypochlorite to read as follows:

§ 180.1054 Calcium hypochlorite; exemption from requirement of a tolerance.

Calcium hypochlorite is exempted from the requirement of a tolerance when used after harvest on the raw agricultural commodity potatoes.

[FR Doc. 80-36409 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[OPP-300038; PH-FRL 678-2]

Certain Inert Ingredients; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This amendment proposes that the exempt inert ingredient alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): The poly(oxyethylene) content averages 3–20 moles which now appears in 40 CFR 180.1001(c) and (e) be revised (broadened) to read "alpha-alkyl (C_9–C_{18})-omega-hydroxypoly(oxyethylene): the poly(oxyethylene) content averages 2–20 moles." This amendment was requested by Shell Oil Co.

DATE: Written comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: John A. Shaughnessy, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-229, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John A. Shaughnessy (202-426-9425).

SUPPLEMENTARY INFORMATION: At the request of Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036, the Administrator is proposing to amend 40 CFR 180.1001 (c) and (e) by broadening the range of alkyl groups from (C_{10}–C_{18}) to (C_9–C_{18}), and the range of poly(oxyethylene) groups from 3–20 moles to 2–20 moles in this inert ingredient. The present entry in 180.1001 (c) and (e) reads: "alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): The poly(oxyethylene) contact averages 3–20 moles * * *."

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient	Name and address of requestor	Basis for approval
Alpha-alkyl (C_9–C_{18})-omega-hydroxypoly (oxyethylene): the poly(oxyethylene) content averages 2.30 moles.	Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036.	This minor change is not expected to be toxicologically significant.

Based on the above information, the chemistry of this substance, and review of its use, it has been found that, when used in accordance with good agricultural practice, this ingredient is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contain "alpha-alkyl (C_9–C_{18})-omega-hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 2–20 moles" may request, on or before December 22, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear notation indicating both the subject and the petition and the document control number "OPP-300038." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767), Room E-229, EPA, 401 M St., SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m. Monday through Friday, except holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by revising the entry "alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): the poly(oxyethylene) content averages 3–20 moles" under § 180.1001 paragraphs (c) and (e) to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* *
Alpha-alkyl (C_8–C_{18} omega-hydroxypoly (oxyethylene): the poly(oxyethylene) content averages 2–20 moles.	.....	Solvent, cosolvent, surfactant, and related adjuvants of surfactants.
* * *	*	* *

(e) * * *

Inert ingredients	Limits	Uses
* * *	*	* *
Alpha-alkyl (C_8–C_{18} omega-hydroxy poly-(oxyethylene): the poly(oxyethylene) content averages 2–20 moles.	.....	Solvent, cosolvent, surfactant, and related adjuvants of surfactants.
* * *	*	* *

[FR Doc. 80-36455 Filed 11-20-80; 8:45 am]

BILLING CODE 6360-32-M

40 CFR Part 180

[PP OE2337/P162; PH-FRL 1678-1]

Isophorone; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that isophorone be exempt from tolerance requirements when used as in inert solvent or cosolvent in postemergence herbicides applied to spinach. This proposal is being resubmitted by the Interregional Research Project No. 4 (IR-4).

DATE: Written comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202-426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has resubmitted pesticide petition OE2337 to EPA requesting that the Administrator propose to amend 40 CFR 180.1001 by exempting isophorone from tolerance requirements when used as in inert solvent or cosolvent in postemergence herbicides applied to spinach.

Inert ingedients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water, baits such as sugar, starches, and meat scraps, dust carriers such as talc and clay, fillers, wetting and spreading agents, propellants in aerosol dispensers, and emulsifiers. The term inert is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name under consideration, the name and address of the requestor of the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Requestor	Bases for approval
Isophorone	IR-4	Isophorone has been exempted as solvent and cosolvent for formulations used before crop emerges from the soil, for postemergence herbicide use on rice and wheat before crop begins to head, and for postemergence use on sugar beets and table beets. Toxicology data supporting this request include 90-day dog and rat feeding studies with a no-observable-effect level (NOEL) of greater than 150 mg/kg/day and greater than 300 mg/kg/day, respectively.

Based on the available information on the chemistry of these substances, and a review of the use, it has been found that, when used in accordance with good agricultural practice, this substance is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any ingredient listed herein, may request on or before December 22, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number "PP OE2334/P162." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, Rm. E-124, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is significant and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" development procedures. EPA labels these other regulations "specialized.". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by revising the item "Isophorone" under § 180.1001(d) to read as follows:

§ 180.1001 Exemption from requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Isophorone	.....	Solvent and cosolvent for formulations used before crop emerges from soil, for postemergence hericide use on rice and wheat before crop begins to head, and for postemergence herbicide use on beets (sugar beets and table beets) and spinach.

* * * * *

[FR Doc. 80-36456 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 8E2083/P160; PH-FRL1678-4]

5-Ethoxy-3-Trichloroethyl-1,2,4-Thiadiazole; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodity strawberries at 0.2 part per

million (ppm). This proposal was submitted by the California Department of Food and Agriculture. This amendment will establish a maximum permissible level for residues of 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its metabolite in or on the raw agricultural commodity strawberries.

DATE: Comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The California Department of Food and Agriculture, 1220 N St., Sacramento, CA 95814, has submitted pesticide petition 8E2083 to EPA. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodity strawberries.

The data submitted in the petition and all other available material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance of 0.2 ppm in or on strawberries were an acute oral LD_{50} of 1,077 milligrams (mg)/kilogram (kg) for rats; a two year rat oral feeding study with a no-observable-effect-level (NOEL) of 80 ppm; a two-year dog oral feeding study with a NOEL of 100 ppm; a rabbit study negative at 15 mg/kg for teratology and fetotoxicity; a rat reproduction study with a NOEL equal to, or greater than, 80 ppm but less than 640 ppm.

Data currently lacking and considered desirable include an oncogenic evaluation in a second species. However, a two-year oncogenicity (feeding) study in mice is currently being conducted.

The acceptable daily intake (ADI) has been calculated to be 0.025 mg/kg/day, based on the dog two-year chronic feeding study NOEL and using a 100 fold safety factor. The maximum permissible intake (MPI) for the subject fungicide is calculated to be 1.5 mg/day/60 kg. Present published tolerances include those for avocados at 0.15 ppm and an interim tolerance for cottonseed at 0.3 ppm.

The percentage of the ADI currently utilized by published tolerances is 0.05 percent. The requested tolerance would increase the percentage of the ADI utilized from 0.05 to 0.09 percent. The total theoretical maximum residue contribution (TMRC) would be increased from 0.0007 to 0.0013 mg/day/1.5 kg.

The metabolism of the subject fungicide is adequately understood and an adequate analytical method (electron capture gas chromatography) is available for enforcement purposes. Since strawberries are not a feed item, there is no expectation for residues of the fungicide in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical.

Thus, based on the above information considered by the Agency, the tolerance of 0.2 ppm in or on strawberries established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 22, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the document control number "PP 8E2083/P160." All written comments filed in response to this proposal will be available for public inspection in the office of Clinton Fletcher from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "strawberries" in the table under § 180.370 to read as follows:

§ 180.370 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole; tolerances for residues.

* * * * *

Commodity	*Part per million*
*	*
Strawberries	0.2.

[FR Doc. 80–36458 Filed 11–20–80; 8:45 am]

BILLING CODE 6560–32–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Parts 51–4 and 51–5

Workshop Responsibilities and Specification Changes

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed rule.

SUMMARY: The Committee proposes to amend its regulations on the preparation of reports workshops must maintain on blind persons and on the procedures relating to changes in specifications or other descriptions of commodities or services on the Procurement List. The proposed changes regarding blind persons limit the reporting requirements to those required by law. The methods used by the Government in describing commodities have changed substantially since the current provisions of § 51–5.11 were established in 1973. The proposed changes provide guidance regarding the actions to be taken when there is a change in the specification, description or designation of a commodity on the Procurement List or the scope of work or other conditions in the provision of a service on the Procurement List.

DATES: Comments must be received on or before January 20, 1981.

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:

Section 51–4.3 assigns certain responsibilities to workshops participating in the Committee's program.

a. Currently the provisions of subparagraphs a(6) require that the report on visual acuity and field of vision for blind persons be signed only by a licensed physician. This requirement has been found to be unduly restrictive since States license

persons other than physicians to measure visual acuity and field of vision. This subparagraph is being changed to permit any person licensed to evaluate visual acuity and field of vision to sign the reports maintained by workshops on blind persons.

b. Subparagraph a(7) regarding the maintenance of reports of evaluations on the capability for competitive employment now applies to both the blind and the other severely handicapped. Blindness is defined specifically in Section 5(1) of Pub. L. 92–28 (41 U.S.C. 48b(1)). An evaluation of a blind person's capability for competitive employment and an annual reevaluation is not required for that person to qualify as blind. However, such evaluations and reevaluations are required as one element in establishing the qualification of a person to be classified as "other severely handicapped." Subparagraph a(7) has been rewritten to cause this requirement to apply to the other severely handicapped only and has been incorporated in the revised paragraph (b) which now covers the requirements for the maintenance of records on other severely handicapped individuals.

c. In a number of instances State or other public agencies assist workshops in placing clients in competitive employment. Subparagraph a(8) has been revised to indicate that a workshop placement program may be operated by or for the workshop.

Section 51–5.11 covers the responsibilities of procuring agencies regarding notification of central nonprofit agencies and the Committee on specification changes affecting comodities on the Procurement List.

a. The section has been revised to expand the scope to cover services and has been updated to reflect the various types of documentation currently used by the Government in its purchasing actions. Several procuring agencies have misinterpreted the intent of the current notification requirement. The section has also been rewritten to ensure timely coordination and notification of contemplated changes which would affect commodities and services on the Procurement List.

b. A new § 51–5.12 has been added to cover replacement items for commodities that are already on the Procurement List.

It is proposed to amend 41 CFR 51 as follows:

1. Revise paragraph 51–4.3(a)(6)(7) to read:

§ 51–43 Responsibilities.

(a) * * *

(6) Maintain a file on each blind individual which includes a written report reflecting visual acuity and field of vision of each eye, with and without glasses, prepared by a person licensed to make such an evaluation.

(7) Maintain an ongoing placement program operated by or for the workshop to include liaison with appropriate community services such as the State employment service, employer groups and others; and list with one or more of these services those individuals capable of normal competitive employment.

* * * * *

2. Delete paragraph 51–4.3(a)(8).

3. Revise paragraph 51–4.3(b) to read:

* * * * *

(b) Each workshop for other severely handicapped participating under the Act shall, in addition to the requirements of paragraph (a) of this section, maintain a file for each other severely handicapped individual which includes:

(1) A written report prepared by a licensed physician, psychiatrist, or qualified psychologist reflecting the nature and extent of the disability or disabilities that cause such person to qualify as other severly handicapped.

(2) Reports on the individual's capability for normal competitive employment, prepared at least annually by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes and abilities of handicapped persons. The file on individuals who have been in the workshop for less than two years shall contain the report of the initial or readmission evaluation and, where appropriate, the next annual reevaluation. The file on individuals who have been in the workshop for two or more years shall, as a minimum, contain reports of the two most recent annual reevaluations.

4. Revise § 51–5.11 to read as follows:

§ 5.11 Specification changes and similar actions.

(a) Specifications or other descriptions for commodities on the procurement list may undergo a series of changes to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision current on the publication date, only the basic specification or description is referenced in the procurement list. Procurement agencies shall notify the workshop and the central nonprofit agency concerned of the latest applicable specification or description.

(b) When a government department or agency is changing the specification or description of a commodity on the Procurement List, including a change that involves the assignment of a new national stock number or item designation, the office assigned responsibility for the action shall obtain the comments of the Committee and the central nonprofit agency concerned on the proposed change and shall notify the workshop and the central nonprofit agency concerned at least 90 days prior to the date for its implementation.

(c) Similarly for services, the procuring activity shall notify the workshop and central nonprofit agency concerned at least 90 days prior to date that any changes in the scope of work or other conditions will be required.

5. Add a new § 51–5.12 to read as follows:

§ 51–5.12 Replacement Commodities.

When a commodity on the Procurement List is replaced by another commodity which has not been previously procured, the replacement commodity is automatically on the Procurement List and shall be procured from the workshop designated by the Committee. The commodity being replaced shall continue to be included on the Procurement List until there is no longer a requirement for that commodity.

(Pub. L. 92–28, 41 U.S.C. 46–48c, 85 Stat. 77)

C. W. Fletcher,

Executive Director.

[FR Doc. 80–36389 Filed 11–20–80; 8:45 am]

BILLING CODE 6820–33–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5947]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

These elevations, together with the flood plain management measures required by section 60.3 (formerly Section 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Palm Springs (City), Riverside County.	Arenas Canyon Creek	800 feet southeast of intersection of Camino Real and Murray Canyon Drive.	*523
		Chino Canyon Creek	Intersection of San Rafel Drive and Lynette Drive	*528
			100 feet downstream of intersection of creek and Indian Avenue	*619
		Palm Canyon Wash	200 feet upstream of intersection of Wash and Golf Club Drive	*333
			100 feet upstream of intersection of Wash and Bogert Trail	*545
		Tahquitz Creek	50 feet upstream of intersection of creek and Farrell Drive	*388
			75 feet downstream of intersection of creek and Palm Canyon Drive	*444
			Intersection of Camino Real and San Lorenzo Road	#2
		Tramview Wash	Area enclosed by Club Circle Drive	#3
		Tramview Wash Tributary	Intersection of Siminole Road and Linden Way	#2
		Whitewater River	Intersection of Vista Chino and Bogie Road	*457
			Intersection of Montecito Circle and Montecito Drive	#3
		West Cathedral Channel	150 feet upstream of intersection of channel and Dunn Road (upstream crossing).	*715
	Maps available for inspection at Department of Community Development, City Hall, 3200 E. Tahquitz, Palm Springs, California.			
	Send comments to Honorable John Doyle, P.O. Box 1786, Palm Springs, California 92263.			
Florida	City of LaBelle, Hendry County	Caloosahatchee River	At Western Corporate Limits	*9
		Stream A	Just upstream of Gulf Atlantic Gladeway (County Road 731)	*14
			Just downstream of Devil Gardens Avenue (County Road 80A)	*19
		Stream B	Just downstream of Main Street (State Highway 29)	*15
			Just upstream of Bridge Street	*16
		Stream C	Just upstream of Bridge Street	*17
		Stream D	Just downstream of Main Street (State Highway 29)	*17
		Stream E	Just upstream of Fort Thompson Avenue	*14
		Stream F	Just upstream of Hickpochee Avenue	*11
			Just downstream of Devil Gardens Avenue (County Road 80A	*19
	Maps available for inspection at City Hall, Highway 80, LaBelle, Florida 33935.			
	Send comments to Mayor Thomas A. Smith or Mr. H. L. Bennett, Supervisor of Public Works, City Hall, P.O. Drawer 458, LaBelle, Florida 33935.			
Florida	Port St. Lucie (City), St. Lucie County.	Indian River	250 feet south along Canby Road from its intersection with Beving Avenue.	*7
		North Fork St. Lucie River	At the intersection of Bywood Avenue and Crowberry Street	*9
		Shallow Flooding	The vicinity of Mile Lake within corporate limits	*12
			700 feet west along Walton Road from its intersection with the Florida East Coast Railroad.	*17
	Maps available for inspection at City Hall Plaza, Port St. Lucie, Florida.			
	Send comments to Honorable William B. McChesney, City Hall Plaza, Port St. Lucie, Florida 33452.			
Florida	St. Lucie County (Unincorporated Areas).	Atlantic Ocean	50 feet east from the intersection of Banyan Road and North Ocean Drive.	*8
		Indian River	At the intersection of Bermuda Drive and North Coral Drive	*7
		North Fork St. Lucie River	At the intersection of Sunrise Boulevard and Weatherbee Road	*11
		Fivemile Creek	At center of Florida East Coast Railroad crossing of Fivemile Creek	*11
			30 feet upstream from the Okeechobee Road crossing	*14
		Tenmile Creek	At center of Selvitz Road crossing of Tenmile Creek	*12
		Taylor Creek Canal	At center of St. Lucie Boulevard crossing of Taylor Creek Canal	*12
		Shallow Flooding	At the intersection of Cortez Boulevard and South 25th Street	*17
	Maps available for inspection at County Administration Building, Ft. Pierce, Florida.			
	Send comments to Honorable Edward Enns, 2300 Virginia Avenue, Ft. Pierce, Florida 33450.			
Georgia	Gwinnett County (Unincorporated Areas).	Beaver Ruin Creek	100 feet upstream of intersection of Beaver Ruin Creek and Pleasant Hill Road.	*862
			Intersection of Beaver Ruin Creek and Mitchell Road	*925
		Beaver Ruin Creek Tributary No. 1.	300 feet downstream of intersection of Beaver Ruin Creek Tributary No. 1 and Pirkle Road.	*936

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Beaver Ruin Creek Tributary No. 2.	1000 feet downstream of intersection of Beaver Ruin Creek Tributary No. 2 and Norcross Tucker Road.	*952
		Big Haynes Creek	170 feet downstream of intersection of Big Haynes Creek and Snellville-Loganville Road.	*893
		Bromolow Creek	50 feet upstream of intersection of Bromolow Creek and West Lidell Road.	*902
		Bromolow Crek Tributary No. 1	150 feet upstream of intersection of Bromolow Creek Tributary No. 1 and Davidson Industrial Boulevard.	*900
		Bromolow Creek Tributary No. 1.1	130 feet upstream of intersection of Bromolow Creek Tributary No. 1.1 and Bailey Drive.	*960
		Camp Creek	120 feet upstream of intersection of Camp Creek and Harmony Grove Church Road.	*918
		Chattahoochee River	200 feet upstream of intersection of Chattahoochee River and McGinnis Ferry Road.	*911
		Crooked Creek	120 feet upstream of intersection of Crooked Creek and Spalding Drive.	*886
		Crooked Creek Tributary No. 1	200 feet downstream of intersection of Crooked Creek Tributary No. 1 and Holcomb Bridge Road.	*920
		Crooked Creek Tributary No. 2	100 feet downstream of intersection of Crooked Creek Tributary No. 2 and Holcomb Bridge Road.	*925
		Crooked Creek Tributary No. 2.1	40 feet ustream of intersection of Crooked Creek Tributary No. 2.1 and Atlantic Boulevard.	*938
		Crooked Creek Tributary No. 2.1.1.	40 feet upstream of confluence with Crooked Creek Tributary No.2.1	*942
		Garner Creek	200 feet upstream of intersection of Garner Creek and Five Forks Trickum Road.	*845
			50 feet downstream of intersection of Garner Creek and Garner Drive.	*929
		Garner Creek Tributary	100 feet downstream of intersection of Garner Creek Tributary and Lilburn Corinth Church Road.	*979
		Hale Creek	120 feet downstream of intersection of Hale Creek and Cole road	*890
		Hale Creek Tributary	150 feet upstream of intersection of Hale Creek Tributary and Warrior Trail.	*882
		Ivy Creek	200 feet upstream of intersection of Ivy Creek and Old Suwanee Road.	*956
		Jacks Creek	70 feet upstream of intersection of Jacks Creek and Ross Road	*792
		Jackson Creek	Intersection of Jackson Creek and center of Lester Road	*853
			180 feet downstream of intersection of Jackson Creek and Jimmy Carter Boulevard.	*920
		Jackson Creek Tributary No. 1	100 feet downstream of intersection of Jackson Creek Tributary No. 1 and Williams Road.	*903
		Jackson Creek Tributary No. 2	150 feet upstream of intersection of Jackson Creek Tributary No. 2 and Williams Road.	*931
		Lee Daniel Creek	200 feet upstream of intersection of Lee Daniel Creek and Boggs Road.	*877
		Lee Daniel Creek Tributary No. 1	50 feet upstream of intersection of Lee Daniel Creek Tributary No. 1 and State Highway 316.	*901
		Lee Daniel Creek Tributary No. 1.1.	50 feet downstream of intersection of Lee Daniel Creek Tributary No. 1.1 and State Highway 120.	*935
		Lee Daniel Creek Tributary No. 2	120 feet downstream of intersection of Lee Daniel Creek Tributary No. 2 and State Highway 316.	*886
		Little Suwanee Creek	150 feet upstream of intersection of Suwanee Creek and Russell Road.	*947
		No Business Creek	100 feet downstream of intersection of No Business Creek and Lake Road.	*740
			50 feet downstream of intersection of No Business Creek and Springdale Drive.	*897
		No Business Creek Tributary No. 1.	50 feet downstream of intersection of No Business Creek Tributary No. 1 and Green Valley Road.	*922
		North Fork Peachtree Creek	80 feet upstream of intersection of North Fork Peachtree Creek and Graves Road.	*945
		Pew Creek	120 feet upstream of intersection of Pew Creek and Huston Road	*900
		Pounds Creek	100 feet upstream of intersection of Pounds Creek and Lake Lucerne Road.	*816
			100 feet upstream of intersection of Pounds Creek and Pounds Drive.	*901
		Redland Creek	200 feet upstream of intersection of Redland Creek and U.S. Highway 29.	*906
		Shetley Creek	420 feet downstream of intersection of Shetley Creek and Old Norcross Lawrenceville Road.	*898
		Shoal Creek	Intersection of Shoal Creek and Paper Mill Road	*931
		Singleton Creek	Intersection of Singleton Creek and center of State Highway 120	*901
		Suwanee Creek	100 feet upstream of intersection of Suwanee Creek and Old Suwanee Road.	*961
		Suwanee Creek Tributary No. 1	Area adjacent to the City of Buford corporate limits upstream of U.S. Highway 23.	*1003
		Sweetwater Creek	50 feet donstream of intersection of Sweetwater Creek and Cruse Road.	*859
			25 feet upstream of intersection of Sweetwater Creek and McDaniel Road.	*914
		Turkey Creek	50 feet upstream of intersection of Turkey Creek and Oak Road	*895
		Watson Creek	50 feet upstream of intersection of Watson Creek and Hewett Road	*900
		Wildcat Creek	20 feet downstream of intersection of Wildcat Creek and Russell Road.	*972
		Wolf Creek	180 feet upstream of intersection of Wolf Creek and State Highway 120.	*908
		Yellow River	200 feet upstream of intersection of Yellow River and U.S. Highway 78.	*813
			100 feet upstream of intersection of Yellow River and Collins Hill Road.	*935
			200 feet downstream of intersection of Yellow River and State Highway 20.	*976

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Yellow River Tributary No. 1	100 feet upstream of intersection of Yellow River Tributary No. 1 and Creekview Drive.	*917
		Yellow River Tributary No. 2	100 feet upstream of intersection of Yellow River Tributary No. 2 and Five Forks Trickum Road.	*879
		Yellow River Tributary No. 3	50 feet upstream of intersection of Yellow River Tributary No. 3 and Five Forks Trickum Road.	*886
	Maps available for inspection at Planning Department, County Administration Building, Lawrenceville, Georgia.			
	Send comments to Honorable Wayne Mason, 240 Oak Street, Lawrenceville, Georgia 30245.			
Illinois	(V) Carpentersville, Kane County	Fox River	At the downstream corporate limit	*721
			Just downstream of Carpentersville Dam	*723
			Approximately 800 feet upstream of Carpentersville Dam	*725
			Approximately 1.8 miles upstream of Carpentersville Dam	*729
		Carpentersville Creek	Just downstream of the Chicago and Northwestern railroad	*721
			Just downstream of Washington Street	*726
			Approximately 350 feet upstream of Washington Street	*727
			Approximately 425 feet downstream of Spring Street	*733
			Just upstream of Spring Street	*739
		Four Winds Way Creek	At mouth	*725
			About 75 feet upstream of Fox River Drive	*738
			Approximately 65 feet upstream of State Route 31	*769
	Maps available for inspection at the Village Manager's Office, Village Hall, 1200 Meadowdale Road, Carpentersville, Illinois.			
	Send comments to Honorable Herbert Radtke, Village President, Village of Carpentersville, Village Hall, 1200 Meadowdale Road, Carpentersville, Illinois 60110.			
Indiana	(T) Edinburg Johnson and Bartholomew Counties.	Driftwood River	About 2.75 miles downstream Hendricks Ford Road	*651
			About 0.2 mile upstream Hendricks Ford Road	*656
			At confluence of Big Blue River and Sugar Creek	*660
		Sugar Creek	About 0.92 mile downstream State Route 79	*661
			About 0.3 mile upstream State Route 79	*668
			About 1.57 miles upstream State Route 79	*670
		Big Blue River	About 0.1 mile upstream State Route 79	*665
			About 2.1 miles upstream State Route 79	*670
		East Side Swale	About 800 feet downstream County Line Road	*668
			Just downstream State Route 252	*674
	Maps available for inspection at the Administrator's Office, Town Hall, 107 South Holland, Edinburg, Indiana.			
	Send comments to Honorable Larry Whitlock, President of the Town Board, Town of Edinburg, Town Hall, 107 South Holland, Edinburg, Indiana 46124.			
Indiana	(C) Mishawaka, St. Joseph County.	St. Joseph River	Downstream corporate limits, (about 11,500 feet downstream of Conrail.	*689
			Just downstream from Conrail	*693
			Just upstream from Uniroyal Dam	*700
			Just downstream from Twin Branch Dam	*704
			Just upstream from Twin Branch Dam	*718
			Upstream corporate limits, (about 8500 feet upstream of Twin Branch Dam).	*718
		Woodward Ditch	Confluence with St. Joseph River	*718
			Approximately 100 feet downstream from Lincoln Way	*719
			Just upstream from Lincoln Way	*723
			Upstream corporate limits, (about 800 feet upstream of Conrail)	*725
		Eller Ditch	Confluence with St. Joseph River	*704
			450 feet upstream from Lincoln Way	*705
			Approximately 300 feet downstream from 3rd Street	*708
			Approximately 1500 feet downstream from Harrison Road	*720
			Just upstream from Harrison Road	*728
			Just downstream from corporate limits, approximately 700 feet downstream from Blackberry Road.	*736
		Judy Creek	Downstream corporate limits, (about 3800 feet downstream from Grape Road).	*735
			Just downstream from Grape Road	*739
	Maps available for inspection at the City Hall, Mishawaka, Indiana.			
	Send comments to Honorable Robert Kovach, Mayor, City of Mishawaka, City Hall, Mishawaka, Indiana 46544.			
Kentucky	City of Pikeville, Pike County	Levisa Fork	Approximately 1100 feet upstream of Airport Road (Pauley Bridge)	*671
			Just downstream of U.S. Highways 23 and 460 (Cline Street)	*673
			Just upstream of U.S. Highways 23 and 460 (Hibbard Street)	*677
	Maps available for inspection at Building Inspector's Office, City Hall, 304 Auxier Avenue, Pikeville, Kentucky 41501.			
	Send comments to Mayor William Hambley or Mr. Tom Charles, Building Inspector, City Hall, 304 Auxier Avenue, Pikeville, Kentucky 41501.			
Louisiana	City of Opelousas, St. Landry Parish.	Bayou Tesson	Just upstream of U.S. Highway 167	*38
			Approximately 1100 feet downstream of Dunbar Avenue	*49
			Just downstream of Bertheaud Avenue	*51
			Just upstream of Church Street	*64
		Bayou Tesson Tributary 2	Just upstream of West Joseph Street extended	*71
		Bayou Yarbor	Just upstream of McCarthy Avenue	*49
			Just downstream of Hulphen Street	*54
		Bayou Davey	Just downstream of Mouton Street	*54
		Bayou Rawles	Just downstream of West Linwood Street	*38
			Just upstream of Heather Drive	*44
		East Bayou Rawles	Just downstream of Prescott Street	*50
		Bayou Del Puent (South Branch)	Just upstream of Bellevue	*55

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bayou Del Puent (North Branch)	Just downstream of Sandoz Street	*50
		East Fork Bayou Plaquemine Brule.	Just upstream of Missouri Pacific Railroad	*71

Maps available for inspection at City Hall, North Court Street, Opelousas, Louisiana 70570.

Send comments to Mayor Tom Edwards or Mr. Harold Lestroates, Chief Administrator, City Hall, North Court Street, Opelousas, Louisiana 70570.

Louisiana	Unincorporated Areas of St. Landry Parish.	Bayou Carencro	Just upstream of State Highway 182	*28
			Just upstream of South Pacific Railroad	*31
		Tributary to Bayou Carencro	Just upstream of U.S. Highway 167	*35
		Bayou Sylvain	Just upstream of confluence of Magnolia Ridge	*38
		Magnolia Ridge	Just upstream of confluence with Bayou Sylvain	*40
		Bayou Petite Prairie	Just upstream of Unnamed Road	*32
		Dry Bayou	Just upstream of Texas and Pacific Railroad Bridge	*45
		Bayou Courtableau	At confluence of Little Darbonne Bayou	*25
		East Bayou Mallet	At approximately 500 feet downstream of Route 104	*62
		Bayou Teche	Just upstream of Missouri Pacific Railroad	*28
		Bayou Fusilier	Just upstream of State Highway 93	*23
		Bayou Little Teche	Just upstream of Missouri Pacific Railroad	*29

Maps available for inspection at St. Landry Parish Courthouse, Opelousas, Louisiana 70570.

Send comments to Honorable Ivan Ryder, President, St. Landry Police Jury or Mr. Terry Doucet, Community Development Director, Parish Courthouse, P.O. Box 551, Opelousas, Louisiana 70570.

Louisiana	Unincorporated Areas of St. Martin Parish.	WABPL Borrow Pit	Just downstream of Parish Road	*12
			Just upstream of Parish Road	*12
		Bayou Portage	Just downstream of Parish Road	*14
			Just upstream of Parish Road	*14
		Coulee Datider	At extended Route 354	*14
			Approximately 1200 feet from Route 341	*20
		Bayou Capucine	Just downstream of Parish Road	*17
			Just upstream of Parish Road	*17
		Bayou Berard	Just downstream of Parish Road	*12
			Just upstream of Parish Road	*12
		Catahoula Coulee	Just downstream of Parish Road	*13
			Just upstream of Parish Road	*14
		Coulee Coteau, Holmes	Just upstream of confluence with Bayon Du Portage	*9
		Bay on Fusilier	Just downstream of State Highway 93	*23
			Just upstream of State Highway 93	*23

Maps available for inspection at St. Martin Parish Police Jury, St. Martin Parish Courthouse, St. Martinville, Louisiana 70582.

Send comments to Mr. M. G. Greig, President, St. Martin Parish Police Jury, P.O. Box 9, St. Martinville, Louisiana 70582.

Maine	Buxton, Town, York County	Saco River	Downstream Corporate Limits	*73
			Directly downstream of Skeleton Station Dam	*76
			Upstream of Skeleton Station Dam	*128
			3,300' upstream of State Route 4A	*137
			Upstream of State Route 4	*144
			Upstream of Bar Mills Dam	*152
			Approximately 1,000' upstream of abandoned railroad bridge	*158
			Directly downstream of West Buxton Dam	*166
			Directly upstream of West Buxton Dam	*181
			Approximately 1,050' downstream of Corporate Limits (Upstream crossing).	*192
			Upstream Corporate Limits	*204
		Saco River, Right Channel	Confluence with Saco River	*182
			Upstream Corporate Limits	*183

Maps available at the Buxton Town Offices, West Buxton, Maine.

Send comments to Honorable Wilmot E. Lewis, Chairman of the Buxton Board of Selectmen, Town Offices, West Buxton, Maine 04093.

Maine	Borham, Town, Cumberland County.	Presumpscot River	Downstream Corporate Limits	*77
			Downstream of South Windham Dam	*82
			Upstream of Mallison Street	*95
			Downstream of Little Falls Dam	*97
			Upstream of U.S. Route 202	*115
			Downstream of Newhall Dam	*119
			Upstream of Newhall Bridge	*140
			Downstream of Dundee Dam	*144
			Upstream of Dundee Dam	*190
			Downstream of Great Falls Bridge	*193
			Upstream of North Gorham Dam	*225
			Upstream Corporate Limits	*226

Maps available at the Gorham Town Offices, 270 Main Street, Gorham, Maine.

Send comments to Honorable Donald Ferris, Town Manager of Gorham, Gorham Town Offices, 270 Main Street, Gorham, Maine.

Missouri	(C) Marston, New Madrid County..	Shallow Flooding	Intersection Toney Street and Elm Street	#2
			Intersection De Mint Street and Main Street	#2
			Intersection Lewis Street and Elm Street	#2

Maps available for inspection at the City Hall, P.O. Box F, Marston, Missouri.

Send comments to Honorable Gene Pikey, Mayor, City of Marston, City Hall, P.O. Box F, Marston, Missouri 63866.

Missouri	(C) Parma, New Madrid County.....	Shallow Flooding (Overflow from Ditch No. 8).	Just north of Main Street along the norwest corporate limits	*281

Proposed 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 Caney Slough and Ditch No. 44).	Intersection of Caney Street and St. Louis Southwestern Railway	*280
			Approximately 1000 feet south of Elm Street and just east of Dixie Avenue.	*280
Maps available for inspection at the Collector's Office, Community Building, Parma, Missouri.				
Send comments to Honorable Doyle Crow, Mayor, City of Parma, City Hall, Parma, Missouri 63870.				
New Jersey	Allentown, Borough, Monmouth County.	Doctors Creek	Downstream Corporate Limits	*61
			Downstream of Main Street	*64
			Approximately 2,000' upstream of Main Street	*73
		Indian Run	Downstream Corporate Limits	*68
			Downstream of Church Street (Route 526)	*71
			Approximately 2,800' upstream of Church Street (Upstream Corporate Limits).	*84
Maps available at the office of the Borough Clerk, 8 North Main Street, Allentown.				
Send comments to Honorable Robert O'Hare, Mayor of Allentown, 8 North Main Street, Allentown, New Jersey 08501.				
New Jersey	Eatontown (Borough), Monmouth County.	Whale Pond Brook	Upstream side of Whale Pond Road	*36
			600' downstream of State Route 35	*39
			Upstream side of State Route 35	*49
			3,200' downstream of Hope Road	*62
			Downstream side of Hope Road	*74
		Parkers Creek	Upstream side of State Route 35	*12
			Conrail Crossing	*16
		Wampum Brook	Western Boundary of Fort Monmouth	*14
			Upstream side of Main Street	*15
			Upstream side of Dam	*18
			Upstream side of Conrail (the downstream crossing)	*20
			Lewis Street	*26
			Upstream boundary of Camp Charleswood	*26
Maps available at the office of the Borough Administration, Municipal Building, 42 Broad Street, Eatontown.				
Send comments to Honorable J. Joseph Frankel, Mayor of Eatontown, 42 Broad Street, Eatontown, New Jersey 07724				
New Jersey	Harding (Township), Morris County.	Passaic River	50 feet west of the intersection of Madisonville Road and Pleasant Plains Road.	*245
			At the intersection of upstream corporate limit and Passaic River	*340
		Great Brook	At the center of Woodland Avenue crossing of Great Brook	*245
			40 feet upstream from center of Van Beuren Road crossing	*272
		Tributary of Great Brook	At the center of James Street crossing of Tributary of Great Brook	*279
		Silver Brook	50 feet upstream from center of James Street crossing	*276
		Primrose Brook	20 feet upstream from center of Lees Hill Road crossing	*238
			50 feet downstream from center of Mount Kemble Avenue crossing	*316
Maps available for inspection at Office of Township Clerk, Township Hall, Township of Harding, P.O. Box 23, Madison, New Jersey.				
Send comments to Honorable W. Thomas Margetts, Mayor, Township of Harding, P.O. Box 23, Madison, New Jersey 07940.				
New Jersey	Matawan (Borough), Monmouth County.	Matawan Creek	Downstream Corporate Limits	*12
			Upstream Corporate Limits at New Brunswick Avenue	*18
		Gravelly Run	Upstream Main Street	*22
			Upstream Conrail at Upstream Corporate Limits	*23
Maps available at the office of the Borough Clerk, 150 Main Street, Matawan, New Jersey.				
Send comments to Honorable Michael Piperno, Borough Administrator of Matawan, 150 Main Street, Matawan, New Jersey 07747.				
New York	Haverstraw (Village), Rockland County.	Hudson River	Entire shoreline within community	*8
		Minisceongo Creek	Approximately 600' downstream of first downstream crossing of corporate limits.	*11
			Upstream of Samsondale Avenue	*19
			Approximately 1,250' upstream of Samsondale Avenue	*30
			Upstream of Conrail	*42
			Approximately 300' downstream of U.S. Routes 9W and 202	*49
			At upstream corporate limits	*62
Maps available at the Village Hall, Fairmont Avenue, Haverstraw, New York.				
Send comments to Honorable Anthony J. Bosico, Mayor, Village Hall, Fairmont Avenue, Haverstraw, New York 10927.				
New York	Huron (Town), Wayne County	Lake Ontario	Entire shoreline within community	*249
			At Sodus Bay shoreline within community	*249
			At East Bay shoreline within community	*249
			At Port Bay shoreline within community	*249
Maps available at the Town Hall, 10880 Lummisville Road, Wolcott, New York.				
Send comments to Honorable Donald Stevens, Town Supervisor, Town Hall, 10880 Lummisville Road, Wolcott, New York 14590.				
New York	Ithaca (City), Tomplins County	Cayuga Lake	Entire Shoreline within City of Ithaca	*386
		Cayuga Inlet	Confluence with Cayuga Lake	*386
			Confluence of Cascadilla Creek	*387
			Downstream confluence of Old Inlet	*387
			State Routes 78, 89, and 96	*388
			Upstream confluence of Old Inlet	*388
			Upstream Corporate Limits	*400
		Cascadilla Creek	Confluence with Cayuga Inlet	*387

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream North Cayuga Street	*396
			Upstream North Tioga Street	*403
			350' upstream Linn Street	*416
		Fall Creek	Confluence with Cayuga Lake	*386
			110' downstream Lake Street	*396
		Old Inlet	Downstream confluence with Cayuga Inlet	*387
			Confluence with Sixmile Creek and Relief Channel	*388
			Upstream confluence with Cayuga Inlet	*388
		Relief Channel	Confluence with Old Inlet	*388
			Approximately 4,000' upstream of confluence with Old Inlet	*388
		Sixmile Creek	Confluence with Old Inlet	*388
			100' downstream West Clinton Street	*398
			Approximately 60' upstream North Aurora Street	*398
			900' upstream North Aurora Street	*418
			60' downstream Footbridge	*429
			980' upstream Footbridge	*439
			1,320' upstream Footbridge	*442
Maps available at the City Clerk's Office, 108 E. Green Street, Ithaca, New York.				
Send comments to Honorable Raymond Bordoni, Mayor, City Hall, 108 East Green Street, Ithaca, New York 14850.				
New York	Lockport (Town), Niagara County.	Donner Creek	Upstream Transit Road	*606
			Upstream Robinson Road	*608
			Upstream Locust Street	*613
			Upstream Hamm Road	*616
			Downstream Beattie Road	*617
		Mud Creek	Upstream Transit Road	*582
			Downstream Minnick Road	*585
			Upstream Rapids Road	*588
			Upstream Wisterman Road	*590
			At Upstream Corporate Limits	*591
Maps available at the Town Hall, 6560 Dysinger Road, Lockport.				
Send comments to Honorable Floyd Snyder, Town Supervisor of Lockport, Town Hall, 6560 Dysinger Road, Lockport, New York 14094.				
New York	Lyndonville (Village), Orleans County.	Johnson Creek	145Downstream Corporate Limits.	*315
			Upstream State Route 63	*320
			Upstream Corporate Limits	*324
Maps available at the Lyndonville Village Hall, 2 South Main Street, Lyndonville.				
Send comments to Honorable Fred Large, Mayor, Village Hall, 2 South Main Street, Lyndonville, New York 14098.				
New York	Skaneateles, Village, Onondaga County.	Skaneateles Lake	Entire shoreline within the community	*867
		Skaneateles Creek	Upstream of downstream corporate limits	*854
			Downstream of West Elizabeth Street	*856
			Downstream of State Dam	*860
Maps available at the Village Office, 46 Genesee Street, Skaneateles, New York.				
Send comments to the Honorable Carl Fisher, Mayor, Village Hall, 46 Genesee Street, Skaneateles, New York 13152.				
Ohio	(C) Euclid, Cuyahoga County	Lake Erie	Shoreline	*576
		Euclid Creek	About 1050 feet downstream of Norfolk and Western Railway	*620
			Just upstream of Norfolk and Western Railway	*626
			About 250 feet upstream of Norfolk and Western Railway	*628
			About 200 feet downstream Euclid Avenue	*630
			Just downstream Euclid Avenue	*632
Maps available for inspection at the Office of the City Clerk, City Hall, 585 East 222nd Street, Euclid, Ohio.				
Send comments to Honorable Tony Giunta, Mayor, City of Euclid, City Hall, 585 East 222nd Street, Euclid, Ohio 44123.				
Ohio	(V) Kelleys Island, Erie County	Lake Erie	Shoreline	*578
Maps available for inspection at the Office of the Village Clerk, Village Hall, P.O. Box 187, Kelleys Island, Ohio.				
Send comments to Honorable Michael McCune, Mayor, Village of Kelleys Island, Village Hall, P.O. Box 187, Kelleys Island, Ohio 43438.				
Ohio	(C) Middleburg Heights, Cuyahoga County.	Baldwin Creek	At Lucerne Drive	*817
			Just upstream Bagley Road	*834
			About 600 feet upstream Bagley Road	*837
			Just upstream private drive	*847
			At West 130th Street	*849
Maps available for inspection at the Office of the City Engineer, City Hall, 15700 East Bagley Road, Middlesburg Heights, Ohio.				
Comments to Honorable Steven Tymico, Mayor, City of Middleburg Heights, City Hall, 15700 East Bagley Road, Middleburg Heights, Ohio 44130.				
Ohio	(C) Parma, Cuyahoga County	West Creek	Just upstream of Snow Road	*803
			About 1750 feet upstream of Snow Road	*849
			Just upstream of Grantwood Drive	*872
			Approximately 1860 feet upstream of Ridgewood Drive	*909
		Baldwin Creek	Just downstream of West 130th Street	*849
			Just upstream of East Linden Lane	*866
			Just downstream of Sprague Road	*876
Maps available for inspection at the Office of the City Engineer, City Hall, 6611 Ridge Road, Parma, Ohio. Send comments to Honorable John Petrushka, Mayor, City of Parma, City Hall, 6611 Ridge Road, Parma, Ohio 44129.				
Ohio	(C) Pepper Pike, Cuyahoga County.	Pepper Creek	About 2350 feet downstream of Shaker Boulevard	*961
			Just downstream of Shaker Boulevard	*968

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 600 feet upstream of dam located 150 feet upstream of Shaker Boulevard.	*973
			About 350 feet upstream of Chatham Road	*977
			About 150 feet downstream of dam located 1100 feet upstream of Chatham Road.	*978
			Just upstream of dam located 1100 feet upstream of Chatham Road	*986
			About 100 feet upstream of golf bridge	*987
			About 150 feet upstream of Lander Road	*1006
			About 1850 feet upstream of Lander Road	*1028
	Maps available for inspection at the Office of the City Clerk, City Hall, 28000 Shaker Boulevard, Pepper Pike, Ohio.			
	Send comments to Honorable John Avery, Mayor, City of Pepper Pike, City Hall, 28000 Shaker Boulevard, Pepper Pike, Ohio 44124.			
Ohio	(C) Warrensville Heights, Cuyahoga County.	Hawthorne Creek	Downstream corporate limits	*1081
			Just upstream of Low Head Dam	*1085
			About 120 feet upstream of Emery Road	*1092
			Upstream corporate limits	*1125
		Mill Creek	About 720 feet downstream of South Miles Road	*939
			Just upstream of South Miles Road	*952
			About 400 feet upstream of Conrail	*972
			About 400 feet upstream of Emery Road	*978
			About 500 feet downstream of Longbrook Road	*1004
			About 1150 feet upstream of Longbrook Road	*1013
			Just downstream of Warrensville Center Road	*1019
	Maps available for inspection at the Office of the City Clerk, City Hall, 4301 Warrensville Center Road, Warensville Heights, Ohio.			
	Send comments to Honorable Raymond J. Grabow, Mayor, City of Warrensville Heights, City Hall, 4301 Warrensville Center Road, Warrensville Heights, Ohio 44128.			
Pennsylvania	Abbottstown, Borough, Adams County.	Beaver Creek	Downstream Corporate Limits	*487
			Upstream side U.S. Route 30	*495
			Confluence of Spring Run	*498
			410 feet below upstream corporate limits	*508
			Upstream corporate limits	*514
		Spring Run	Confluence with Beaver Creek	*498
			Upstream side State Route 194 (S. Queen St.)	*507
			Upstream Corporate Limits	*509
	Maps available at the Municipal Building, Abbottstown, Pennsylvania.			
	Send comments to Honorable John Ebaugh, Council President of Abbottstown, 169 East King Street, Abbottstown, Pennsylvania 17301.			
Pennsylvania	Paradise, Township, York County.	Conewago Creek	Downstream Corporate Limits	*389
			Downstream Eisenhower Dam	*397
			Confluence of Beaver Creek	*400
		Beaver Creek	Confluence with Conewago Creek	*400
			Downstream side of downstream crossing of Beaver Creek Road	*413
			Upstream Jacobs Mill Road	*424
			Confluence of Tributary A	*434
			Downstream Home Road	*447
			Downstream Protectory Road	*461
			Downstream First footbridge	*478
			Upstream U.S. Route 30	*496
			Downstream crossing Country Club Road	*520
			Footbridge approximately 3,150 feet upstream of the downstream crossing of Country Club Road.	*551
			Upstream crossing Country Club Road	*568
			Downstream Maple Grove Road	*613
		Tributary A	Confluence with Beaver Creek	*434
			Upstream Canal Road	*456
			Upstream side of Dam approximately 1,000 feet upstream of Canal Road.	*467
			Downstream Protectory Road	*486
			Downstream U.S. Route 30	*511
			Upstream U.S. Route 30	*519
			Downstream Private Drive approximately 2,500 feet upstream of U.S. Route 30.	*541
			Approximately 580 feet downstream of Maple Grove Road	*583
			Downstream Maple Grove Road	*597
			Downstream Dam approximately 80 feet upstream of Maple Grove Road.	*605
	Maps available at the Paradise Township Building, Beaver Creek Road.			
	Send comments to Honorable Dean Bentzel, Chairman of the Paradise Board of Supervisors, R.D.1, Thomasville, Pennsylvania 17364.			
Pennsylvania	Reading (City), Berks County	Schuylkill River	Confluence with Angelica Creek	*199
			Centerline of Buttonwood Street	*212
			200 feet upstream from centerline of Schuylkill Street	*215
			100 feet downstream from centerline of Warren Street Bypass	*224
		Angelica Creek	250 feet downstream from centerline of Morgantown Road	*200
			100 feet upstream from centerline of Morgantown Road	*222
		Wyomissing Creek	Centerline of Museum Road	*211
			Centerline of West Shore Bypass	*209
		Tulpehocken Creek	500 feet downstream from centerline of Conrail	*214
			Centerline of Warren Street	*215
	Maps available for inspection at City Hall, Eighth and Washington Streets, Reading, Pennsylvania.			
	Send comments to Honorable Karen Miller, Eighth and Washington Streets, Reading, Pennsylvania 19601.			
Texas	City of Austin, Travis County	Boggy Creek (South)	Just downstream of Circles Drive	*617
			Just upstream of West Boggy Creek Road	*635

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bull Creek	Approximately 300 feet downstream of Loop 360	*551
		Bull Creek, Tributary 1	Just upstream of Farm-to-Market Road	*505
		Carson Creek	Approximately 300 feet downstream of Dalton Lane	*440
			Just upstream of East Bound Highway 71	*478
		Colorado River	Just downstream of Pleasant Valley Road	*439
			Just upstream of the confluence of Bull Creek	*495
			Just upstream of the confluence of Bear Creek	*512
		Dry Creek	Just downstream of Walsh Tarleton Drive	*640
		Dry Creek North	Just upstream of Mt. Bonnell Road	*517
			Just upstream of Farm-to-Market 2222	*586
		Onion Creek	Just upstream of Knockles Crossing	*534
		Walnut creek	Just upstream of Layola Lane	*475
			Just downstream of Interstate 35	*601
			Just upstream of North Lamar Road	*622
			Just downstream of Farm-to-Market 1325	*686
			Just upstream of Oak Creek Drive	*751
		Walnut Creek Tributary G	Approximately 90 feet downstream of Duval Road	*705
		Wells Branch	Approximately 2500 feet downstream of Ceder Bend Drive	*625
		Williamson Creek Part I	Just upstream of Nuckles Crossing Road	*543
			Just downstream of the downstream crossing of South First Street	*605
		Williamson Creek Part II	Approximately 4000 feet downstream of Joe Tanner Lane	*775
		Williamson Creek Tributary 2	Just upstream of William Cannon Blvd	*711
			Just upstream of Latta Drive	*749

Maps available for inspection at City Hall, 124 West 8th Street, Austin, Texas 78767.

Send comments to Mayor Carol McClellan or Mr. Ramone F. Miquez, Engineer, City Hall, 124 West 8th Street, Austin, Texas 78767.

Texas	City of Brenham, Washington County	Little Sandy Creek	Just downstream of Independence St.	*238
			Just upstream of Independence St	*240
			Just downstream of FM 2935	*249
			Just upstream of FM 2935	*252
			Just downstream of Loop 283	*261
			Just upstream of Loop 283	*263
			Just downstream of Burleson Street	*275
			Just upstream of Burleson Street	*278
		Higgins Branch	Just downstream of FM 2935	*255
			Just upstream of FM 2935	*258
			Just downstream of Horton Street	*260
			Just upstream of Horton Street	*263
			Just downstream of Burleson Street	*279
			Just upstream of Burleson Street	*290
			Just downstream of Jefferson Street	*298
			Just upstream of Jefferson Street	*301
		Higgins Tributary	Just downstream of Saeger Street	*314
			Just upstream of Saeger Street	*316
		Hog Branch	Just downstream of Horton Street	*253
			Just upstream of Horton Street	*255
			Just downstream of the Southern Pacific Railroad	*264
			Just upstream of the Southern Pacific Railroad	*266
			Just downstream of Chappell Hill St.	*281
			Just upstream of Chappell Hill St.	*284
		Ralston Creek	Just downstream of Horton Street	*261
			Just upstream of Horton Street	*266
			Just downstream of Gun and Rod Road	*274
			Just upstream of Gun and Rod Road	*277
			Just downstream of Chappell Hill St.	*303
			Just upstream of Chappell Hill St.	*305
		South Fork of Ralston Creek	Approximately 140 feet upstream of the confluence point with Ralston Creek.	*284
		Unnamed Tributary of Woodward Creek.	Just upstream of Trinity Street extended	*329

Maps available for inspection at City Utility Building, 210 North Park Street, Brenham, Texas 77833.

Send comments to Mayor Leslie D. Clayton or Mr. Johhny Smith, City Manager, City Hall, 210 North Park Street, Brenham, Texas 77833.

Texas	City of Cuero, Dewitt County	Gohlke Creek	At Alonzo Street	*167
			At Heaton Street	*167
			Approximately 160 feet at upstream of Main Street	*175
			Approximately 120 feet at upstream of Broadway St.	*177
		Gohlke Creek Tributary	At McArthur Street extended	*169
			Approximately 120 feet at downstream of Morgan Avenue	*172
			Just upstream of South Railroad St.	*176
		SCS Channel	At downstream corporate limits, approximately 150 feet downstream of Paine Street	*182

Maps available for inspection at City Hall, 201 East Main Street, Cuero, Texas 77954.

Send comments to Mayor Ben E. Prause, City Hall, 201 East Main Street, Cuero, Texas 77954.

Texas	City of Danbury, Brazoria County	Flores Bayou	Intersection of Avenue K and Ninth Street	*22
			Intersection of Avenue J and Eleven Street	*22
		Austin Bayou	County Road 602 (extended)	*19
			Fourth Street (extended)	*20

Maps available for inspection at City Hall, 6102 Fifth Street, Danbury, Texas 77534.

Send comments to Mayor Larry Menard, or Ms. Marilyn Lampe, City Secretary, City Hall, 6102 Fifth Street, Danbury, Texas 77534.

Texas	City of Falfurrias, Brook County	Pio Blanco Creek	Just downsteam of E. Rice Street (U.S. Highway 285)	*113
		Cibolo Creek	Just downstream of E. Rice Street (U.S. Highway 285	*113

Proposed 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 Area	At the intersection of St. Mary Street (U.S. Highway 281) and Taylor Street.	#1
			At the intersection of N. St. Mary Street (U.S. Highway 281) and Huisache Street.	#2
			At the intersection of N. St. Mary Street (U.S. Highway 281) and Travis Street.	#3
Maps available for inspection at City Hall, 205 East Allen Street, Falfurrias, Texas 78355.				
Send comment to Mayor Ernesto Villarreal or Ms. Aurora Rodriguez, City Clerk, City Hall, 205 East Allen Street, Falfurrias, Texas 78355.				
Texas	City of Harker Heights, Bell County.	Nolan Creek	Just downstream of Buffalo Trail	*720
			Just upstream of North Ann Boulevard	*735
		Harker Heights Tributary 1	Just upstream U.S. Highway 190 (Business)	*723
			Just upsteam of Indian Trail	*768
		Harker Heights Tributary 2	Just downstream U.S. Highway 190 (Business)	*732
			Just upsteam Clore Road	*763
			Just downstream of South Amy Lane	*779
		Overland Flow, Harker Heights Tributary 2.	Just upstream of Bluebird Drive	*795
		Harker Heights Tributary 3	Just upstream of Ball Road	*739
			Just upstream of North Ann Boulevard	*769
		Harker Heights Tributary 4	At Jamie Road Extended	*744
Maps available for inspection at City Hall, 120 Harley Drive, Harker Heights, Texas 76541.				
Send Comments to Mayor Keith S. Lain or Mr. Fred Coley, City Manager, City Hall, 120 Harley Drive, Harker Heights, Texas 76541.				
Texas	City of Harlingen, Cameron County.	Arroyo Colorado	Just downstream of Loop 449	*21
			Just downstreram of U.S. Routes 77/83 & Access Roads	*26
		Tributary #1 Arroyo Colorado	Approximately 600 feet upstream of Treasure Lake Rd.	*33
		Tributary #2 to Arroyo Colorado	Just upstream of U.S. Routes 77/83	*33
		Tributary #3 to Arroyo Colorado	Just downstream of Garret Road	*35
			Just downstream of Lincoln Avenue	*39
Maps available for inspection at City Hall, 118 East Tyler Street, Harlingen, Texas 78550.				
Send comments to Mayor Bob Youker, or Mr. Harry Savio, City Manager, City Hall, 118 East Tyler Street, Harlingen, Texas 78550.				
Texas	City of Holland, Bell County	Darrs Creek	Just downstream of State Highway 95	*502
			Just downstream of Missouri-Kansas Texas Railroad	*505
			Just upstream of Missouri-Kansas Texas Railroad	*511
			Just downstream of Hackberry Street	*511
		Cathey Creek	Approximately 180 feet at upstream of the north corporate limits which is located approximately 1270 feet at upstream of FM 1123.	*544
Maps available for inspection at City Hall, 104 West Travis, Holland, Texas 76534.				
Send comments to Mayor Roger Houston or Ms. Janet Nelson, City Secretary, City Hall, 104 West Travis, Holland, Texas 76534.				
Texas	City of Killeen, Bell County	Nolan Creek	Approximately 30 feet at upstream of Roy Reynolds Drive	*745
			At 54th Street extended	*767
			Approximately 120 feet at upstream of 38th Street	*777
			Approximately 130 feet at upstream of W. S. Young Drive	*791
			Just downstream of Highway 190 (Business)	*802
			Approximately 60 feet at downstream of Sixth Street (Gray-Street)	*813
			Approximately 30 feet at downstream of Dimple Street	*827
		Little Nolan Creek	Approximately 60 feet at downstream of Highway 190 (Business)	*773
			Approximately 30 feet at downstream of F.M. 2410	*782
			Approximately 20 feet at downstream of North Frontage Road of U.S. Highway 190.	*801
			Approximately 20 feet at downstream of Little Nolan Road	*819
		Little Nolan Creek Tributary 1	Approximately 40 feet downstream of W. S. Young Drive	*835
			Approximately 100 feet downstream of West Trimmer Road	*862
			Approximately 110 feet at upstream of old F.M. 440	*940
		Little Nolan Creek Tributary 2	Approximately 20 feet at upstream of East Trimmer Road	*822
		Long Branch	Approximately 20 feet at upstream of F.M. 439	*781
			Approximately 40 feet at upstream of Lake Road	*793
			At Laurel Lane extended	*799
			Approximately 20 feet at downstream of Hillard Avenue	*824
		Harker Heights Tributary 4	At Spring Brook Drive Extended	*766
		Nolan Creek Tributary 3	Approximately 50 feet of upstream at Atchison Avenue	*794
			Approximately 70 feet at upstream of Liberty Street	*804
			Approximately 40 feet at upstream of Davis Drive	*824
		Nolan Creek Tributary 4	Approximately 100 feet at upstream of Greenwood Avenue	*809
			Approximately 70 feet at downstream of Harris Avenue	*823
			Approximately 90 feet at downstream of Gray Avenue	*839
		Site Tributary No. 7	Just downstream of Roy Reynolds Drive	*763
Maps available for inspection at City Hall, 400 North Second St., Killeen, Texas 76541.				
Send comments to Mayor E. Blair, City Hall, 400 N. Second St., Killeen, Texas 76541.				
Texas	City of Kingsville, Kleberg County.	Escondido Creek	Just upstream of FM 135E	*48
			Just downstream of Missouri Pacific Railroad	*46
			Just downstream of Southern corporate limits	*41
			Just downstream of U.S. Highway 77 Bypass	*39
		Santa Gertrudis Creek	Just downstream of U.S Highway 77 Bypass	*40
			Just downstream of U.S. Highway 77 Business	*50
			Kingsville corporate limits	*52

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tranquitas Creek	U.S. Highway 77 Bypass	*45
			Just upstream of 17th Street	*48
			Just upstream of 5th Street	*64
			Just upstream of 1st Street	*65

Maps available for inspection at City Hall, 200 East Kleberg Street, Kingsville, Texas 78363.

Send comments to Mayor Mary C. Hill, or Mr. Mike Tanner, Director of Planning and Urban Development, City Hall, 200 East Kleberg Street, Kingsville, Texas 78363.

(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: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-38176 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5841]

Revision of Proposed Flood Elevation Determinations for Borough of Roseland, Essex County, New Jersey, Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Roseland, New Jersey.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 42711 on June 25, 1980 and in the *Caldwell Progress*, published on or about May 29, 1980, and June 5, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at 140 Eagle Rock Avenue, Roseland, New Jersey.

Send comments to: Honorable Richard Leonard, 140 Eagle Rock Avenue, Roseland, New Jersey 07068.

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

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough or Roseland, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

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

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Passaic River	Intersection of Passaic River and center of Morristown and Erie Railroad.	*174
Foulertons Brook	Confluence of Foulertons Brook and North Branch Foulertons Brook.	*173
	20 feet upstream from center of Locust Avenue.	*250
North Branch Foulertons Brook.	160 feet upstream from center of Eisenhower Parkway.	*186
	70 feet upstream from center of Morristown and Erie Railroad.	*241
	115 feet upstream from center of ADP Boulevard.	*282
Canoe Brook	Intersection of Canoe Brook and center of Thackery Drive.	*450
	Intersection of Canoe Brook and center of Evelyn Road.	*468

(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: November 4, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80-38178 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5528]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Marshall, Allegheny County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *North Hills News Record* on June 1, 1979, and June 5, 1979, and in the **Federal Register** at 44 FR 33898 on June 13, 1979, and hence

supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review by contacting Ms. Maxine Douthett, Marshall Township Secretary at (412) 935–2911.

Send comments to: Honorable Thomas W. Frank, Chairman of the Marshall Board of Supervisors, Box 94, Warrendale, Pennsylvania 15086.

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

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Marshall, Allegheny County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

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

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Marshall, Township Allegheny County.	Brush Creek	Downstream Corporate Limits	*1,024
			Thorn Hill Road Upstream	*1,035
			Perry Highway Upstream	*1,058
			Northgate Drive Upstream	*1,064
			Upstream Corporate Limits	*1,072

(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: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36179 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5946]

National Flood Insurance Program Proposed Base Flood Elevations and Zone Designations for the City of Galax, Independent City, Virginia

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

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

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 123 North Main Street, Galax, Virginia.

SEND COMMENTS TO: Mr. W. Harold Snead, City Manager, City of Galax, Galax, Virginia 24333.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410; (202) 755–6570 or toll free line (800) 424–8872).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevations and zone designations for the City of Galax, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures requried by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations along Chestnut Creek range from 2364 feet MSL at the point where Route 89 crosses Chestnut Creek south of Pipers Gap Road to 2339 feet MSL at a point approximately 450 feet downstream of the point where U.S. Routes 58 and 221 cross Chestnut Creek.

The proposed zone designations are:

Zone A7 in portions of the area west of Chestnut Creek bounded on the north by a line perpendicular to Chestnut Creek and approximately 450 feet downstream from U.S. Routes 58 and 221, on the west by the railroad tracks, and on the south by a line parallel to and 500 feet north of Oldtown Street; in portions of the area west of Chestnut

Creek bounded on the west by Chestnut Drive and on the north and south by lines perpendicular to Chestnut Creek and approximately 150 feet and 400 feet respectively south of the junction of Chestnut Drive and Branch Street; in portions of the area east of Chestnut Creek bounded on the north by Webster Street, on the east by a line parallel to an approximately 125 feet east of Givens Street, and on the south by a line parallel to an approximately 400 feet south of Webster Street; and in portions of the area west of Chestnut Creek bounded on the north by a line parallel to and approximately 400 feet south of Bartlett Street, on the south by a line parallel to and approximately 900 feet south of Bartlett Street, and on the west by a line parallel to and approximately 200 feet east of Railroad Avenue.

Zone B in portions of the area west of Chestnut Creek bounded on the north by a line perpendicular to Chestnut Creek and approximately 450 feet downstream from U.S. Routes 58 and 221, on the west by Madison Street, a straight line connecting the south end point of Madison Street to the north end point of Edwards Street, Edwards Street, a straight line connecting the south end point of Edwards Street to a point on the railroad adjacent to River Side Drive, the railroad south of River Side Drive, a straight line connecting the south end point of the railroad to the junction of Chestnut Drive and Branch Street, and a line connecting the junction of Chestnut Drive and branch Street to a point on Chestnut Drive approximately 475 feet south of the junction of Chestnut Drive and Branch Street, and on the south by a line parallel to and 475 feet south of Branch Street; also in portions of the area east of Chestnut Creek bounded on the north by U.S. Routes 58 and 221 and Shaw Road, on the east by Caldwell Street, a straight line connecting the junction of Caldwell Street and Mary Street to the junction of Knob Road and Givens Street, a straight line connecting the junction of Knob Road and Givens Street to a point on Brickyard Road approximately 300 feet east of Route 89 Truck Bypass, a straight line connecting the point on Brickyard Road approximately 300 feet east of Route 89 Truck Bypass to a point on Bedsaul road approximately 50 feet east of Lineberry Road, a locus of points parallel to and approximately 50 feet east of Lineberry Road from Bedsaul Road to Route 89, and the west side of Route 89 between Lineberry Road and the point where Route 89 crosses Chestnut Creek south of Pipers Gap Road.

Zone C along both of the two northernmost tributaries of Chestnut Creek; and in portions of the area west of Chestnut Drive on either side of Branch Street within a radius of approximately 300 feet of the junction of Chestnut Drive and Branch Street; in portions of the area bounded on the north by Shaw Street, on the south by Mary Street on the east by Caldwell Street, and on the west by Meadow Street, in portions of the area east of Chestnut Creek bounded on the north by Oldtown Street, on the east by Oak Street, on the south by Brickyard Road, and on the west by Meadow Street; also in portions of the area west of Chestnut Creek bounded on the north by a straight line parallel to and approximately 250 feet south of River Side Drive, on the west by Route 89 and a line parallel to an 50 feet north of Chestnut Drive, and on the south by the extended centerline of Branch Street.

(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 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36180 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 80-605; RM-3569]

Amendment To Permit the Use of 12.5 kHz Offset Assignments in the 450–470 MHz Band in the Private Land Mobile Radio Services; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment.

SUMMARY: The Notice of Proposed Rule Making proposes making the 12.5 kHz offset frequencies lying between regularly assigned channels in the 450–470 MHz band available to all private land mobile services as is already being done in the Business Radio Service. Adoption of this proposal could make over 300 additional interstitial channels available for systems requiring limited coverage. The date for filing comments and reply comments is extended because parties desiring to comment requested more time to prepare comments.

DATES: Comments must be submitted on or before November 30, 1980, and reply comments on or before December 15, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Emmett Haines Pritchard, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Adopted: November 5, 1980.

Released: November 7, 1980.

By the Chief, Private Radio Bureau:

1. On October 20, 1980, the Commission released a Notice of Proposed Rule Making (45 FR 69504) in the above-styled matter (FCC 80–566). The date for filing comments in the document is on or before November 5, 1980, and reply comments on or before November 15, 1980.

2. Several of the interested parties have requested that this time period be extended because the present time periods do not allow adequate time to prepare comments.

3. We believe that the requested additional time is warranted, and will enable a more thorough exploration of the issues before the Commission.

4. Accordingly, it is ordered, that the time for filing comments in RM–3569 is extended to and including November 30, 1980, and reply comments to and including December 15, 1980.

5. This action is taken pursuant to authority found in Section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.331 of the Commission's Rules.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80-36340 Filed 11-20-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Cornelius Livestock Co., Phoenix, Arizona; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility number, name, and location of stockyard	Date of posting
AZ-101 Cornelius Livestock Co., Phoenix, Arizona.	Oct. 16, 1957.
AZ-106 Snowflake Livestock Auction, Snowflake, Arizona.	Nov. 8, 1973.
AZ-107 Vande Voorde Livestock Auction, Show Low, Arizona.	Apr. 1, 1974.
AZ-108 West Chandler Livestock Auction, Chandler, Arizona.	Dec. 5, 1974.
AZ-110 Sun Valley Livestock Auction Co., Sun Valley, Arizona.	Oct. 28, 1977
CA-101 Chas. Adams Dairy Auction Yards, Artesia, California.	Jan. 6, 1947.
CA-105 Beaumont Horse Market, Beaumont, California.	Oct. 6, 1969.
CA-110 Chowchilla Livestock Auction Yards, Chowchilla, California.	Nov. 20, 1959.
CA-111 Maclin-Caldwell Auction Co., Colton, California.	Oct. 1, 1959.
CA-116 Schene Sheep Auction, Dixon, California.	Nov. 6, 1959.
CA-133 California Auction & Liquidators, Riverdale, California.	Nov. 10, 1959.
CA-136 Modesto Horse Sale, Modesto, California.	Nov. 4, 1969.
CA-143 Orland Auction Yard, Inc., Orland, California.	Oct. 10, 1959.
CA-148 Red Bluff Livestock Auction, Red Bluff, California.	Oct. 6, 1959.
CA-149 Riverbank Livestock Auction, Riverbank, California.	May 10, 1961.
CA-163 Williams Livestock Auction Co., Inc., Williams, California.	Oct. 12, 1959.
CA-165 Yuba City Auction Yard, Yuba City, California.	Nov. 9, 1959.
CA-170 Bangor Auction, Bangor, California.	Apr. 2, 1976.
CO-104 Burlington Livestock Market Center, Burlington, Colorado.	Aug. 30, 1950.
CO-111 A. A. Blakley Livestock Commission Co., Inc., Stockyards, Denver, Colorado.	Oct. 28, 1966.
CO-114 Elizabeth Livestock Auction, Colorado.	Oct. 3, 1959.
IL-100 Hilltop Sales Barn, Alton, Illinois.	Nov. 17, 1959.
IL-108 Byron Livestock Commission Company, Byron, Illinois.	Nov. 20, 1959.
IL-109 Estes Livestock Auction, Canton, Illinois.	Sept. 16, 1960.
IL-121 Forrest Livestock Sales, Forrest, Illinois.	Nov. 19, 1959.
IL-132 Jefferson County Livestock Auction, Mt. Vernon, Illinois.	Sept. 19, 1961.
IL-138 Palmyra Sales Company, Palmyra, Illinois.	May 31, 1961.
IL-144 Penfield Livestock Commission Co., Penfield, Illinois.	Nov. 20, 1959.
IL-148 Princeton Livestock Auction, Princeton, Illinois.	Sept. 13, 1969.
IL-149 Princeville Livestock Sale, Princeville, Illinois.	Nov. 25, 1959.
IL-156 Stoutenborough Auction, Springfield, Illinois.	Nov. 18, 1959.
IL-165 Phillips Sale Company, Good Hope, Illinois.	Sept. 23, 1971.
IL-166 Benton Livestock Sale, Benton, Illinois.	Aug. 4, 1975.
IA-104 Allerton Sale Co., Allerton, Iowa.	May 16, 1959.
IA-116 Belmond Livestock Sales, Belmond, Iowa.	May 19, 1959.
IA-118 Boone Sales Co., Boone, Iowa.	May 18, 1959.
IA-126 Clear Lake Auction Company, Clear Lake, Iowa.	Mar. 12, 1957.
IA-150 Fonda Livestock Sales, Fonda, Iowa.	June 4, 1959.
IA-162 McIntosh Livestock Auction Co., Ida Grove, Iowa.	Mar. 14, 1958.
IA-187 Montezuma Sale Company, Montezuma, Iowa.	June 9, 1959.
IA-221 Stuart Horse Sale, Stuart, Iowa.	Sept. 2, 1967.
IA-223 Lynch Enterprizes Auction, Sumner, Iowa.	May 22, 1959.
IA-227 Interstate Producers Livestock Association, Wadena, Iowa.	May 18, 1959.
IA-239 Peterson's Place, Webster City, Iowa.	Dec. 10, 1971.
IA-253 Woodbury County Livestock Auction Co., Inc., Lawton, Iowa.	Dec. 27, 1976.
KS-114 Concordia Sales Company, Concordia, Kansas.	May 30, 1959.
KS-120 Douglass Livestock Commission Company, Douglass, Kansas.	May 27, 1959.
KS-127 Flint Hills Livestock Auction, Eskridge, Kansas.	June 15, 1965.
KS-136 Goodland Livestock Commission Co., Goodland, Kansas.	Apr. 21, 1950.
KS-138 Harper Livestock Sales Company, Harper, Kansas.	June 8, 1950.
KS-152 Larned Livestock Market Center, Larned, Kansas.	Apr. 18, 1950.
KS-163 Natoma Livestock Company, Natoma, Kansas.	May 25, 1959.
KS-166 Norton Livestock Commission Company, Norton, Kansas.	Apr. 22, 1950.
KS-193 Waverly Livestock Sales Barn, Waverly, Kansas.	Sept. 28, 1959.
KS-194 Wichita Union Stock Yards, Wichita, Kansas.	Nov. 1, 1921T.
KS-201 Hesston Sales, Hesston, Kansas.	Mar. 15, 1976.
KY-104 Burkesville Stockyard, Burkesville, Kentucky.	Dec. 10, 1959.
LA-110 W. H. Hodges & Company, Inc., Crowley, Louisiana.	June 12, 1957.
LA-138 Zachary Stock Yards, Zachary, Louisiana.	Nov. 19, 1958.
MI-135 Thumb Auction Markets, Inc., Sandusky, Michigan.	Apr. 22, 1959.
MS-101 Booneville Commission Company, Booneville, Mississippi.	Feb. 11, 1959.
MS-104 Knight Stockyard, Carthage, Mississippi.	Feb. 9, 1959.
MS-141 Fairchild Livestock Sales, Inc., Summit, Mississippi.	Feb. 17, 1959.
MS-158 Lucedale Livestock Auction Sales, Inc., Lucedale, Mississippi.	June 26, 1979.
MO-112 Butler Community Sale, Butler, Missouri.	June 5, 1959.
MO-117 Charleston Auction Company, Charleston, Missouri.	July 16, 1957.
MO-123 Doniphan Auction Sales Co., Doniphan, Missouri.	May 11, 1959.
MO-133 Goodman Livestock Auction, Inc., Goodman, Missouri.	May 11, 1959.
MO-141 Griffin Horse & Mule Auction, Kansas City, Missouri.	Dec. 16, 1960.
MO-166 Monett Sale co., Monett, Missouri.	June 4, 1959.
MO-170 Neosho Livestock Auction Company, Neosho, Missouri.	June 4, 1959.
MO-178 Noel Cox Livestock Auction, Ozark, Missouri.	May 15, 1959.
MO-187 Horsemans Paradise Barn, Raymondville, Missouri.	Nov. 18, 1968.
MO-198 Seneca Community Sales, Inc., Seneca, Missouri.	May 22, 1959.
MO-209 Lincoln County Livestock Market, Troy, Missouri.	May 26, 1959.
MO-229 West Plains Livestock Auction, West Plains, Missouri.	Jan. 31, 1973.
MO-233 McDonald County Sales Co., Jane, Missouri.	Aug. 28, 1973.
NE-140 Grant Sales Company, Grant, Nebraska.	Apr. 27, 1959.
NE-158 Newman Grove Livestock Market, Newman Grove, Nebraska.	May 6, 1959.
NE-175 Sidney Livestock Market, Inc., Sidney, Nebraska.	Jan. 29, 1963.
NE-176 Lockwood Livestock Auction, So. Sioux City, Nebraska.	Apr. 30, 1959.
NV-100 Gallagher Livestock, Inc., Fallon, Nevada.	Oct. 1, 1959.
NM-107 Ranchers and Farmers Livestock Auction Co., Inc., Clovis, New Mexico.	Jan. 17, 1947.
OH-107 Scioto Livestock Association, Chillicothe, Ohio.	Mar. 12, 1954.
OH-109 Producers Livestock Association, Circleville, Ohio.	June 2, 1959.
OH-145 Muskingum Livestock Sales Co., Zanesville, Ohio.	June 8, 1959.
OK-101 Stockyards of Altus, Inc., Altus, Oklahoma.	Oct. 24, 1949.
OK-113 Carnegie Livestock Auction, Carnegie, Oklahoma.	Aug. 22, 1968.
OR-125 Ontario Livestock Commission, Inc., Ontario, Oregon.	Dec. 6, 1977.
TN-105 Chattanooga Farmers Stockyards, Chattanooga, Tennessee.	May 5, 1959.
TN-111 Cookeville Livestock Company, Inc., Cookeville, Tennessee.	Dec. 8, 1966.

Facility number, name, and location of stockyard	Date of posting
TN-126 Hohenwald Livestock Market, Hohenwald, Tennessee.	May 27, 1959.
TX-111 Baycity Livestock Commission Company, Bay City, Texas.	May 1, 1957.
TX-112 Beaumont Livestock Commission Company, Beaumont, Texas.	Jan. 15, 1957.
TX-128 Burk Horse Auction, Burkburnett, Texas.	Apr. 4, 1959.
TX-155 Denton Livestock Exchange, Denton, Texas.	Jan. 21, 1959.
TX-199 Kennedale Auction Barn, Kennedale, Texas.	Oct. 20, 1971.
TX-251 Round Mountain Livestock Auction Company, Round Mountain, Texas.	Oct. 15, 1968.
TX-254 Matthews Livestock Commission Co., San Saba, Texas.	Feb. 13, 1959.
TX-266 Temple Livestock Auction, Temple, Texas.	Feb. 26, 1957.
TX-290 Menard County Commission Company, Inc., Menard, Texas.	Dec. 4, 1971.
TX-301 Tri-County Stockyard, Rio Grande City, Texas.	Feb. 6, 1973.
WA-101 Burlington Sales Pavilion, Inc., Burlington, Washington.	Oct. 8, 1959.
WA-116 Britton Bros. Snohomish Auction Market-West Barn, Snohomish, Washington.	Dec. 1, 1966.
WI-112 Wisconsin Feeder Pig Marketing Cooperative, Lancaster, Wisconsin.	Apr. 12, 1971.
WI-119 South Central Livestock Sales, Portage, Wisconsin.	Sept. 18, 1969.
WI-130 Kettle Moraine Auctions, Inc., Waukesha, Wisconsin.	Feb. 23, 1973.
WI-131 Wisconsin Feeder Pig Marketing Cooperative, Coltonville, Wisconsin.	Feb. 25, 1974.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective November 21, 1980.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 14th day of November 1980.

Jack W. Brinckmeyer,

Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80-36327 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

Donated Foods to Nutrition Programs for the Elderly; Level of Assistance—Fiscal Year 1981

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants of contracts for the operation of nutrition services under Titles III and VI of the Act for the period October 1, 1980 through September 30, 1981 will be 47.25 cents per meal. Title II provides for congregate and home-delivered nutrition services to persons aged 60 and older and their spouses; Title VI provides for nutrition services that are comparable to those provided under Title III for older Indians represented by tribal organizations of Indian Tribes. The legislation requires the Secretary, in donating foods or providing cash in lieu thereof to nutrition programs for the elderly funded under the Act, to maintain a minimum level of assistance during Fiscal Years 1979 through 1981 of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 47.25 cents per meal includes such an adjustment and reflects an increase in that series of 9.87 percent as reported by BLS for the period September 1979 through August 1980.

Effective Date: This notice is effective as of October 1, 1980.

Dated: November 17, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36326 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Forest Land and Resource Management Plan, Dixie National Forest, Washington, Iron, Kane, Garfield, Piute and Wayne Counties, Utah; Revised Notice of Intent to Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Dixie National Forest Land and Resource Management Plan was published in the **Federal Register**, Volume 45, No. 140, P. 48175, July 18, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in June 1982, and the Final Environmental Impact Statement is proposed for release in September 1982.

All other conditions of the original Notice of Intent remain the same.

Dated: November 13, 1980.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 80-36296 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

1981 Corn, Sorghum, Barley, Oats, Rye and Soybean Program Determinations.

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Notice of Determination of 1981 Crop National Program Acreages, Set-Aside Levels and Other Progam Provisions for Corn, Sorghum, Barley, Oats, Rye and Soybeans.

SUMMARY: This notice is for the purpose of proclaiming national program acreages, announcing that there will be no required set-aside of cropland and setting forth other program provisions for the 1981 crops of corn, sorghum and barley in accordance with provisions in section 105A of the Agricultural Act of 1949, as amended. Provisions of the 1949 Act, as amended, require that a determination of national program acreage, national recommended reduction and set-aside requirements be announced for feed grains not later than November 15 prior to the year in which the crop is harvested. Section 201(e) of the Agricultural Act of 1949, as amended, provides authority for a price support program for soybeans. Section 1001 of the Food and Agriculture Act of 1977, as amended, provides that the Secretary may require, as a condition of eligibility for loans, purchases and payments under the Agricultural Act of 1949, that producers not exceed the normal corp acreage (NCA) established for their farms.

EFFECTIVE DATE: November 14, 1980.

ADDRESS: Director, Production Adjustment Division, ASCS–USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe or Lois Moe, Agricultural Program Specialists, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7987. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option is available on request from the above-named individuals.

SUPPLEMENTARY INFORMATION: This Notice of Determinations has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

The title and number of the federal assistance program that this notice applies to are: TITLE-Feed Grain Production Stabilization; Number 10.055; as found in the Catalog of Federal Domestic Assistance.

The need for this notice is to satisfy the statutory requirements as provided for in Sections 105A(a)(1), 105A(a)(2), 105A(b)(1)(B), 105A(b)(1)(D), 105A(d)(1), 105A(d)(3), 105A(f)(1), 105A(f)(2), and 201(e) of the Agricultural Act of 1949, as amended, and Section 1001(a) and 1001(b) of the Food and Agriculture Act of 1977, as amended. A notice that the Secretary was preparing to make determinations with respect to the 1981 Feed Grains and Soybean Programs was published in the **Federal Register** on September 9, 1980 (45 FR 59363) in accordance with 5 U.S.C. 553 and provided for a 30-day comment period. The press release dated September 12 requesting Comments on the 1981 Feed Grain and Soybean Programs extended the comment period to October 27, 1980. One hundred forty-five responses, coming from 28 States and the District of Columbia, were received. Those responding included 92 farmers, 18 State and County ASC Committees, 2 Soil and Water Conservation District Chairmen, 10 national farm organizations, 6 State farm organizations, 7 national agribusinesses, 2 Congressmen, 2 national organizations, and 6 representing consumer and consultant interests. In addition, a survey was received from a producer association representing 314 larger scale producer views. A summary of the responses with respect to the 1981 crop of feed grains and soybeans is as follows:

1. *National Program Acreages (NPA's):* Eight commented. All recommended that the 1981 NPA's be equal to or less than those announced for the 1980 feed grain crops.

2. *Set-Aside:* Ninety commented, with 37 preferring some level of set-aside requirement for feed grains. Four recommended a 10-percent set-aside while 3 recommended 20 percent. The rest favored some level of set-aside. Fifty-three comments were received suggesting a zero set-aside. Sixty-seven percent of the producer association's survey responses favored no set-aside.

3. *Land Diversion:* Sixty-four commented with 37 recommending some type of land diversion program for feed grains. These comments suggested levels of land diversion ranging from 10 to 25 percent; however, there was little consensus on the specific percentage of land to be diverted. Fifty-seven percent of those surveyed by the producer association do not want land diversion.

4. *National Recommended Reduction Percentage:* Seven commented. All requested no percentage reduction in the acreage planted to feed grains from the previous year.

5. *Target Prices:* Sixty-eight commented, with 36 referring specifically to corn and 28 to sorghum. Target price levels preferred for corn ranged from $2.35 to $4.00 per bushel. Recommended sorghum target prices ranged from $2.55 to $6.00 per bushel. Seventeen suggested adjusting target prices for NCA and set-aside compliance. Thirteen wanted target prices tied to inflation and the cost of production.

Of those responding to the producer association survey, 45 percent favored a corn target price of $2.70 with no set-aside. Fifty percent favored a target of $2.85 with set-aside.

6. *National Average Loan and Purchase Rates:* Sixty-one commented. There was little consensus on recommended loan and purchase rates with respect to the 1981 crop of feed grains and soybeans, but the majority preferred some type of increase. Corn loan rates varied from $2.25 per bushel to 100 percent of parity. Soybean loan rates varied from $5.02 per bushel to 90 to 100 percent of parity. Eighty-three percent of the responses to the producer association survey favored increases in the corn loan levels ranging from $2.35 to $5.00 per bushel.

7. *Barley and Oats in the Program:* There were 73 comments on this provision with 5 favoring just barley in the program, 3 favoring just oats, and 42 suggested that both barley and oats be included. Twenty-three did not want barley or oats in the progam.

8. *Compliance with the Normal Crop Acreage (NCA):* Seventy-two commented with 67 percent favoring required compliance with the farm NCA as a condition of eligibility for program benefits. Thirty-seven percent of those surveyed by the producer association favor required compliance with the NCA.

9. *Limitation on Planted Acreage:* Forty-nine commented, with 20 favoring a limitation; 7 are in favor if there is set-aside and 22 are not in favor of a limitation on planted acreage.

10. *Rye:* Two comments were received. One favored a $2.00 loan rate for rye, while the other favored a $3.00 loan rate.

Eleven comments favored no feed grain program. Eight comments were received on offsetting compliance, with seven opposed and one in favor of offsetting compliance.

All comments received were duly considered by the Secretary. Accordingly, the Secretary made determinations petaining to the 1981 crops of corn, sorghum, barley, oats, rye, and soybeans. These determinations were announced in a press release on November 14, 1980. The purpose of this notice is to affirm the determinations as previously announced.

Notice of Determinations

1. National program Acreages (NPA's) for the 1981 Crops of Corn, Sorghum, and Barley.

In accordance with section 105A(d)(1) of the Agricultural Act of 1949, as amended, it is hereby proclaimed that NPA's for the 1981 crop of corn shall be 90.1 million acres sorghum, 15.4 million acres; and barley, 9.7 million acres. The national program acreages are based on the following data:

	Corn	Sorghum	Barley
	Million bushels		
(a) Estimated domestic use, 1981–82	5,030	507	375
(b) Estimated silage use, 1981–82	635	50	.....
(c) Plus estimated exports, 1981–82	2,650	265	50
(d) Minus estimated Imports, 1981–82	1	0	10
(e) Plus stock adjustment[1]	880	119	68
(f) Divided by estimated national weighted average farm program yield (bu./ac.)	102	61	50
	Million acres		
(g) Equals preliminary 1981 NPA	90.1	15.4	9.7
[1] a. 6.7 percent of 1980/81 world consumption of coarse grains	1,480	190	190
b. Minus estimated 1981/82 beginning stocks	600	71	122
c. Equals stocks adjustment	+880	+119	+168

Section 105A(d)(1) of the 1949 Act provides that the Secretary may revise the national program acreage as proclaimed for the purpose of determining the allocation factor if he determines it is necessary based upon the latest information. The national allocation factors will be determined prior to December 1981 for barely and April 1982 for corn and sorghum.

2. No Set-Aside for 1981 Crop Feed Grains.

Section 105A(f)(1) of the 1949 Act provides that the Secretary shall provide for a set-aside of cropland if the

Secretary determines that the total supply of feed grains is, in the absence of such a set-aside, likely to be excessive taking into account the need for and adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Accordingly, it is hereby determined and proclaimed that no set-aside of cropland will be required for the 1981 crops of feed grains. In making the determinations as to set-aside in accordance with the statutory authority set forth above, the Secretary utilized the following economic data.

The 1980/81 world feed grain production is forecast at 716 million metric tons (MMT), down about 2-percent from the 1979/80 level. Combining production with beginning stocks results in total supply forecast at 805 MMT—about 1 percent below the 1979–80 level. Total utilization, estimated at 746 MMT, is 2.5 percent above the previous year. This leaves 59 MMT ending stocks, which are less than 8 percent of utilization and a third below the 1979/80 level.

Total U.S. feed grain supplies (corn, sorghum, barley, and oats) for the 1980/81 marketing year (MY) are estimated at 245 MMT with utilization estimated at 223 MMT. This results in a 22 MMT carryover, compared with 52 MMT for 1979/80. With a season average price for corn estimated to range from $3.30 to $3.75 a bushel, gross farm income from feed grain production, including program payments, is estimated at a record $26 billion—an increase of $2.8 billion over the 1979/80 previous record.

In 1981/82, more land is expected to be planted to feed grains, and with average weather, a significant annual increase in world production should occur. Assuming continued expansion in world livestock and poultry production, utilization will also rise, leaving 1981/82 world ending stocks near this year's level.

U.S. feed grain acreage in 1981 with no set-aside program is expected to be 3 to 4 percent larger than 1980 feed grains planted acreage. Larger plantings are expected for corn, sorghum, and barley. with oats acreage about equaling the 1980 level. Yields will likely exceed the drought reduced levels of 1980 but may not match the record level of 1979. With the increased acreage, production may be near the record 1979 level. Feed use during 1981/82 could show a slight increase over 1980/81 depending on the response of the livestock and poultry sectors to higher grain prices and narrower feeding margins during 1981. U.S. feed grain exports in 1981/82 will likely continue to increase. Ending stocks are projected to remain at relatively low levels and will be well below what is considered an excessive stocks position. As a result, prices should continue strong for the 1981 crop year.

In 1980/81, world soybean production is expected to be lower, but due to larger beginning stocks, total supply should decrease only about 5-percent to 99 MMT.

Total U.S. soybean supplies for the 1980/81 MY are estimated at 58 MMT with utilization at 53 MMT. Carryover stocks are estimated at 4.5 MMT, 55 percent below the 1979/80 level. With a season average price for soybeans estimated to range from $7.35 to $9.85 a bushel, gross farm income from soybean production is estimated at a record $15.0 billion—a 6-percent increase over the 1979/80 previous record.

Given this outlook for feed grains and the corn-soybean relationship, it is determined that no set-aside is needed for the 1981 crop of feed grains. Such a determination will allow farmers the flexibility to expand production to meet requirements.

A set-aside program to reduce feed grain production could aggravate an already tight supply-demand situation. Should supplies exceed current expectations, the farmer owned reserve program will be available to producers as a viable alternative to remove excess grain from the market.

3. 1981 Land Diversion.

In view of the decision not to require a set-aside of cropland as a condition of eligibility for loans, purchases, and payments and in view of the fact that land diverson payments are not necessary to assist in adjusting the total national acreage of feed grains to desirable goals, no land diversion program as provided for by section 105A(f)(2) of the Agricultural Act of 1949, as amended, will be implemented for the 1981 crop of feed grains.

4. Recommended Reduction from 1980 Planting for 1981 Crops of Corn, Sorghum, and Barley.

In accordance with section 105A(d)(3) of the Agricultural Act of 1949, as amended, it is hereby determined and proclaimed that a zero percent reduction in acreage from that planted to corn, sorghum or barley on a farm for harvest in 1980 shall be applicable to the acreage of such crops planted for harvest in 1981 on such farm. The 1980 acreage planted for harvest to such crops will include the acreage actually harvested plus any approved prevented planted acreage. With a zero percent reduction, producers who plant no more corn, sorghum or barley for 1981 harvest than was planted for harvest for each of those commodities in 1980 will be eligible for deficiency payments on the entire 1981 planted acreage of such crops, if in compliance with other program provisions.

This determination is based on the following data:

[In millions of acreas]

	Corn	Sorghum	Barley
a. 1980 Est. Nat'l Harv. Ac.	81.5	12.9	7.4
b. Plus Ac. Credited as Harv.	(*)	(*)	(*)
c. Equals 1980 Considered Harv. Ac.	81.5	12.9	7.4
d. Minus 1981 Preliminary NPA	90.1	15.4	9.7
e. Equals Ac. Reduction Needed from Prev. Year's Harv. Ac.	0	0	0
f. Divided by 1980 Considered Harv. Ac.	81.5	12.9	7.4
g. Equals 1981 Recommended Reduction Percentage	0	0	0

* Less than 50,000 Acres.

5. 1981 Established "Target" Price.

The Agricultural Adjustment Act of 1980 (Pub. L. 96–213, approved March 18, 1980) amends section 105A(b)(1)(B) of the Agricultural Act of 1949, as amended, and provides that the 1981 corn target price be not less than the 1980 target ($2.35), adjusted upward to reflect changes in the costs of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities.

Target prices per bushel for the 1981 crops will not be less than $2.35 for corn; $2.50 for sorghum; and $2.55 for barley. Final target prices for these commodities will be annoumced by April 1, 1982. It is hereby determined that the 1981-crop established "target" prices for corn, sorghum and barley will not be further increased pursuant to section 1001(b) of the Food and Agriculture Act of 1977, as amended by the Agricultural Act of 1980, to compensate producers for not exceeding the established farm normal crop acreage (NCA).

6. 1981 Loan and Purchase Levels (Feed grains and Soybeans).

In accordance with section 105A(a)(1) of the Agricultural Act of 1949, as amended, it is hereby determined that the 1981 crop feed grain loan and purchase levels per bushel will be not less than $2.25 for corn, $2.14 ($3.82 per cwt.) for sorghum, $1.83 for barley, $1.16 for oats, and $1.91 for rye. The loan and purchase level for soybeans, as provided for by section 201(e) of the Agricultural Act of 1949, as amended, will be not less than $5.02. Final determination will be made when supply prospects are clearer and with a further review of the farmer-owned reserve program objectives for the 1981 crop of feed grains.

7. Inclusion of Barley and Oats in the Feed Grain Program.

It is hereby determined that the 1981 crop barley will be included in the feed grain program and, therefore, a producer will be eligible for target price protection, price support loans and for participation in the farmer-owned reserve with respect to the 1981 crop of barley. It is also determined that 1981 crop oats will not be included in the feed grain program. However, oats will be eligible for the 1981 loan and purchase program and the farmer-owned reserve program.

8. Compliance with Farm Normal Crop Acreage (NCA) for Program Benefit Eligibility.

Pursuant to section 1001(a) of the Food and Agriculture Act of 1977, as amended, it is hereby determined for the 1981 crop of feed grains that corn, sorghum and barley producers shall be required to plant within the established farm NCA as a condition of eligibility for loans, purchases and payments under the Agricultural Act of 1949, as amended.

Signed at Washington D.C. on November 14, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 80-36094 Filed 11-14-80; 4:34 pm]

BILLING CODE 3410-05-M

Rural Electrification Administration

New Hampshire Electric Cooperative, Inc., Plymouth, New Hampshire; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $75,250,000 to New Hampshire Electric Cooperative, Inc., of Plymouth, New Hampshire, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $500,000 to this cooperative.

These loan funds will be used to finance approximately 2.17 percent interest in the Seabrook Nuclear Generating Station, Units 1 and 2, having a nameplate rating of 1,150,000 kW each and associated transmission facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Pillsbury, Manager, New Hampshire Electric Cooperative, Inc., Plymouth, New Hampshire 03264.

In order to be considered, proposals must be submitted on or before December 22, 1980., to Mr. Pillsbury. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as New Hampshire Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 10th day of November, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-36183 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

Western Farmers Electric Cooperative, Anadarko, Oklahoma; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedrues as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $41,360,000 to Western Farmers Electric Coopeative of Anadarko, Oklahoma, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $10,000,000 to this cooperative. These loan funds will be used to finance the construction of approximately 375 miles of 138 kV transmisson line, substations, and other system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed construction, including the engineering and economic feasbility studies and the proposed schedule of advances to the borrower of the guaranteed loan funds from Mr. Maynard Human, Manager, Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Oklahoma 73005.

In order to be considered, proposals must be submitted on or before December 22, 1980, to Mr. Human. The right is reserved to give such consideration and make such evalution or other disposition of all proposals received, as Western Farmers Electric Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrifcation Loans and Loan Guarantees.

Dated at Washington, D.C., this 10th day of November 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-36182 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 38866]

Air International Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 2, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 17, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-36475 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 33681, 38682, 38683]

Former Large Irregular Air Service Investigation; Applications of Key Airlines, Inc.; Assignment of Proceeding

This proceeding, insofar as it involves the applications of Key Airlines, Inc., Dockets 38681, 38682, and 38683, has been assigned to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., November 14, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36478 Filed 11-20-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38955]

Global International Airways Corp., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders.

Dated at Washington, D.C., November 17, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36477 Filed 11-20-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38948]

Muse Air Corporation; Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on December 1, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

The issues in the proceeding will be those prescribed by the Board in Order 80-11-51. Pursuant to that order and to facilitate the conduct of the conference, parties are instructed to submit on or before November 24, 1980, (1) requests for any evidence in addition to that submitted with the application, and (2) proposed procedural dates. One copy of such material should be sent to each party and three copies to the judge.

Dated at Washington, D.C., November 17, 1980.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 80-36476 Filed 11-20-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) tehnical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilaterial and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and place: December 9, 1980, at 9:30 a.m. The meeting will take place at the Institute of Defense Analyses, the Gallery Room, 400 Army-Navy Drive, Arlington, Va.

Agenda: General Session.

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Committee preparation for the next list review.

(4) Subcommittee reports: a. Discrete Semiconductor Device, b. Microcircuits and c. Semiconductor Manufacturing Materials and Equipment.

Executive Session.

(5) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: November 18, 1980.

Saul Padwo,
Director of Licensing.

[FR Doc. 80-36345 Filed 11-20-80; 8:45 am]
BILLING CODE 3510-25-M

Maritime Administration

[Docket S-678]

United States Lines Inc.; Application

Notice is hereby given that in an letter applications dated November 4, and 18 1980, United States Lines, Inc. (U.S. Lines) has requested authority to acquire from Farrell Lines Incorporated (Farrell), (1) the long-term charters on two C6-S-85a container vessels chartered from Continental Illinois Bank and Trust Company and related interests, and (2) such subsidized service rights on Trade Route Nos. (TRs) 5-7-8-9 (U.S. North Atlantic/United Kingdom and Continent) and 12 (U.S. Atlantic/Far East) as Farrell (a) may have under Contract No. MA/MSB-462 or (b) may be accorded in connection with Farrell's application for a 20-year operating-differential subsidy agreement in Docket No. S-610 and related proceedings.

U.S. Lines currently provides approximately weekly service on an unsubsidized basis on TRs 5-7-8-9 and approximately weekly service on an unsubsidized basis on a combined service on TRs 5-7-8-9 and TR 11 (U.S. South Atlantic/United Kingdom and Continent) with eight C6-S-1wc

container vessels. U.S. Lines currently provides approximately weekly service on an unsubsidized basis on TR 12 (U.S. East Coast/Far East) and TR 29 (U.S. Pacific, Hawaii/Far East) with three C7–S–68e, two C7–S–68c, three C7–S–68d and one C8–S–81e container vessels.

U.S. Lines proposes to continue its existing service on TRs 5–7–8–9 and combination service on TRs 5–7–8–9 and 11 with the same vessels and for the same number of voyages. U.S. Lines proposes to operate with subsidy on five such vessels up to a maximum of 55 sailings annually. Any of the 55 sailings which could not be made by vessels serving Trade Route No. 5–7–8–9 exclusively, would be made by vessels operating on the combined TR 5–7–8–9 service described above, with service to South Atlantic ports being provided on an unsubsidized basis.

U.S. Lines proposes to add the two C6–S–85a container vessels AUSTRAL ENSIGN and AUSTRAL ENDURANCE acquired from Farrell and to continue. U.S. Lines' existing service on TR 12 with 11 vessels but with the same number of voyages as at present with subsidy on eight such vessels up to a maximum of 30 sailings annually. U.S. Lines would continue to operate on TR 12 between the United States East Coast and the Far East including calls at ports in Panama, California, Guam, and the State of Hawaii, with service to U.S ports on TR 29 on an unsubsidized basis.

U.S. Lines has requested permission under section 805(a) to continue to own, operate, or charter vessels engaged in domestic intercoastal or coastwise service as a common carrier by water with its existing vessels and the two vessels to be acquired from Farrell:

1. To continue to engage in intercoastal service as part of its subsidized or unsubsidized service on a round voyage from the Atlantic Coast of the United States to the Orient between the U.S. East Coast and the U.S. West Coast on a weekly service via the Panama Canal. U.S. Lines claims it was in a bona fide operation as a common carrier by water in the intercoastal trade in 1935 over the route or routes, or portions thereof, and the service for which permission is sought and has so operated since that time.

2. To continue the operation between the U.S. East Coast and the State of Hawaii as a part of its subsidized or unsubsidized service on a voyage in foreign trade on a weekly service westbound only.

3. To continue the operation between the U.S. West Coast (California) ports and the State of Hawaii as a part of its subsidized or unsubsidized service on a voyage in foreign trade on a weekly service westbound only.

U.S. Lines has requested transfer and interchange (substitution) privileges at U.S. Atlantic ports for all its vessells, both subsidized and unsubsidized, among all of its services, both subsidized and unsubsidized.

U.S. Lines has indicated that it is now and plans to continue (1) chartering and operating the German-flag vessel MARGRET, of approximately 142 TEUs capacity, between certain ports in the United Kingdom, France, the Netherlands and West Germany, as a feeder vessel transshipping cargo to and from its vessels operating on TRs 5–7–8–9 and 11, (2) owning an interest in, chartering and sub-chartering out the Liberian-flag vessel AMERICAN MOHAWK for operation between the Mediterranean and Africa, and (3) owning and chartering out to a Taiwan corporation the Liberian-flag vessels FORMOSA CONTAINER and STRAIT CONTAINER for operation between Hong Kong and Taiwan. U.S. Lines has indicated that none of these vessels compete with any American-flag service determined to be essential pursuant to section 211 of the Act, and that consequently a waiver of section 804(a) is not required for U.S. Lines to continue to own and/or charter out these vessels.

Interested parties may inspect the foregoing letter applications in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 3099–B, Department of Commerce Building, Fourteenth and E Streets NW., Washington, DC 20230.

Any person, firm, or corporation having any interest in such letter applications and desiring to submit comments thereon must file comments in triplicate with the Secretary, Maritime Subsidy Board/Maritime Administration by close of business five working days after the publication of this Notice. The Maritime Subsidy Board/Maritime Administration will consider such comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/ Assistant Secretary for Maritime Affairs.

Dated: November 18, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80–36317 Filed 11–20–80; 8:45 am]

BILLING CODE 3510–15–M

Vessel Retrofitting to Comply with the Port and Tanker Safety Act of 1978; Applications for Construction-Differential Subsidy (CDS); Determination that Supplemental Environmental Impact Statement Not Required

A Tanker Construction Program was started by the Maritime Administration (MarAd) in 1970 to provide construction-differential subsidy (CDS) for the construction of oil-carrying vessels. An Environmental Impact Statement (EIS) for the Program was published on May 30, 1973, discussing each class of oil-carrying vessel on which construction had started or which was likely to be constructed with the aid of CDS during the Tanker Construction Program. Vessel classes included in the EIS ranged from approximately 35,000 DWT to 400,000 DWT. Pollution abatement specifications developed by MarAd were also discussed.

The Maritime Subsidy Board/ Maritime Administration adopted the EIS in Docket No. A–75, issued on August 30, 1973, and determined that the Tanker Construction Program would continue. Strict compliance with the pollution abatement provisions of the MarAd Standard Specifications for Merchant Ship Construction, as revised, were required on all tankers built with CDS. It also held that CDS assistance would be considered for retrofitting tankers which were constructed under the Program to incorporate anti-pollution features that are developed by the U.S. Coast Guard, MarAd, or the Intergovenmental Maritime Consultative Organization (IMCO).

The Maritime Subsidy Board has recently received several applications for construction-differential subsidy to aid in the retrofitting of oil-carrying vessels in compliance with the requirements for pollution prevention established by the Port and Tanker Safety Act of 1978 (PTSA) and regulated by the U.S. Coast Guard. These applications are:

AERON MARINE SHIPPING, for two tankers
AQUARIUS MARINE, for one tanker
ARIES MARINE SHIPPING, for two OBO's
NORTHWEST SHIPPING, for one tanker
WORTH OIL TRANSPORT, for one tanker
YEON SHIPPING, for one tanker

These vessels are all of the "SAN CLEMENTE CLASS" and were constructed with the assistance of CDS. The tankers have been designated as MarAd Design T8–S–100b, with a deadweight of about 92,000 long tons.

and the OBO's have been designated as MarAd Design OB8–S–90a, with a deadweight of about 82,000 long tons. All the vessels were constructed in compliance with the pollution abatement provisions of the MarAd Standard Specifications for Merchant Ship Construction (MarAd standard specifications) and with the plans and specifications of the National Steel and Shipbuilding Company (NASSCO), which included provisions for special pollution controls. This class of vessel is described in the EIS as an example of an "Intermediate Tanker" and an "Ore/Bulk/Oil Carrier" (OBO) in Section II, and the environmental impact of constructing such ships is covered throughout the EIS in various sections.

Since the environmental impact of offering CDS assistance for the construction of these vessels has already been discussed fully in the EIS, and Docket A–75 provides for the use of CDS funds for retrofitting tankers with anti-pollution devices, the Board has decided that neither a new EIS nor a Supplement to the EIS is required with respect to these applications. The retrofitting, which is required by the PTSA and will be regulated by the U.S. Coast Guard, is expected to augment the pollution features already incorporated in the construction of the vessel and to reduce the potential for pollution of the marine environment.

The basis for the Board's determination is available for public inspection in the Office of the Secretary, Room 3009–B, Maritime Administration, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

(Catalog of Federal Domestic Assistance Program 11,500)

Dated: October 31, 1980.

By Order of the Maritime Subsidy Board/Maritime Administration.

Georgia P. Stamas,

Acting Secretary.

[FR Doc. 80-36318 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Environmental Impact Statement; Incidental Take of Dall Porpoise

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

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing this notice to advise the public that an environmental impact statement will be prepared on the incidental take of Dall porpoise in the Japanese salmon fishery, and to invite participation in the scoping process on this issue.

DATE: Comments are requested by December 5, 1980.

ADDRESS: Please address the individual identified below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634–7461.

SUPPLEMENTARY INFORMATION: A three-year exemption from the incidental take permit requirements of the Marine Mammal Protection Act of 1972 (MMPA) granted the Japanese salmon fishery in the North Pacific Ocean, and implemented by 1978 amendments to the North Pacific Fisheries Act of 1954 (NPFA), will expire in June 1981. Marine mammals, primarily the Dall porpoise, are taken in the course of commercial gillnet operations by Japanese fishing vessels within and outside the United States fishery conservation zone (FCZ) in the North Pacific and Bering Sea. An October 1980 report to the International North Pacific Fisheries Commission (INPFC) indicates that the incidental take of Dall porpoise (*Phocoenoides dalli*) in the Japanese mothership fishery in 1980 was approximately 7,234. Approximately 4,452 of these animals were estimated to have been taken with the FCZ, and 2,782 outside our waters. The Dall porpoise population in the North Pacific and Bering Sea area is estimated at between 840,000 and 2.3 million animals. these estimates have a large variance because of small sample size and the limited amount of area that we were able to survey.

A decision on whether to allow the Japanese fishery to take marine mammals within our waters should be communicated to the Japanese by April 1981, before they begin preparations for the 1981 fishing season. To ensure that our decision is made in accordance with the purposes and policies of the National Environmental Policy Act of 1969 (NEPA), NMFS will prepare a draft environmental impact statement (EIS) which contains a discussion of the environmental impacts of the following three alternative actions: (1) Issue a permit to the Japanese salmon fishery which allows the take of marine mammals incidental to commercial fishing operations, according to the provisions of Section 103 of the MMPA (proposed action); (2) recommend legislative action to extend the permit exemption; and (3) no action (including impacts on Japanese participation in the INPFC).

This notice of intent to prepare an EIS is being sent to appropriate Federal, State and local agencies and private organizations and individuals who may have an interest in this proposal. No formal scoping meeting is planned at this time. To ensure that the full range of actions, alternatives and impacts and all significant issues relating to a decision on this matter have been identified, we invite the participation of all interested parties in this scoping process, through comments and suggestions directed to the individual identified above.

Dated: November 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-36467 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Hearings

The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will hold public hearings for the purpose of public input on the Draft Fishery Management Plan for Atlantic Billfish.

Dates: Written comments on the Billfish Fishery Management Plan from members of the public may be submitted no later than March 20, 1981. Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

December 9, 1980; Raleigh, North Carolina.
December 10, 1980; Atlantic Beach, North Carolina.
December 11, 1980; Kill Devil Hills, North Carolina.

All of the above hearings will start at 7:30 p.m. and adjourn at 10:00 p.m. The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared.

Address: Send comments to: Chairman, South Atlantic Fishery Management Council, 1 Southpart Circle, Suite 306, Charleston, South Carolina 29407.

Hearings locations:

December 9, 1980; Best Western-Royal Villa, 6339 Glenwood Avenue, Meeting Room E, Raleigh, North Carolina.
December 10, 1980; Marine Resources Center, Bogue Banks Auditorium, Atlantic Beach, North Carolina.
December 11, 1980; Holiday Inn, Vintage and Century Rooms (combined), Highway 158

Business, Box 308, Kill Devel Hills, North Carolina.

Additional hearings will be held in other locations under the jurisdiction of the South Atlantic Council at some future time.

For further information contact: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Suite 306, Charleston, North Carolina 29407, (803) 571–6366.

Dated: November 18, 1980.

Robert K. Crowell,

Deputy Executive Diretor, National Marine Fisheries Service.

[FR Doc. 80-36443 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, December 16, 1980, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–3523.

Dated: November 18, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-36344 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton and Wool Textile Products From Macau

November 18, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for partial carryforward for the following categories of cotton and wool textile products, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1980: 338 (men's and boys' cotton knit shirts), 339 (women's, girls' and infants' cotton knit shirts and blouses), 340 (men's and boys' woven cotton shirts), 347/348 (cotton trousers), and 445/446 (wool sweaters).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau provides for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used deducted from the level in the succeeding year. At the request of the Government of Macau partial carryforward is being applied to cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446 during the agreement year which began on January 1, 1980.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 30, 1980, there was published in the **Federal Register** (45 FR 6826) a letter dated January 25, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, under the terms of the bilateral agreement, to increase the levels of restraint established for cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446 during the twelve-month period which began on January 1, 1980.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, International Trade Administration

November 18, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On January 25, 1980, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29, and December 18, 1979, between the Governments of the United States and Macau; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 24, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Macau, which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

withdrawal from warehouse for consumption of cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446, produced or manufactured in Macau, in excess of the following levels of restraint:

Category	Adjusted 12-mo level of restraint [1] (doz)
338	127,035
339	509,186
340	121,711
347/348	289,595
445/446	72,238

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the Government of Macau and with respect to imports of cotton and wool textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-36412 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-25-M

Amending the Definition Applicable to Certain Exempt Apparel Items Exported From Taiwan

November 7, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Further amending the definition for traditional Chinese Garments which are exempt, when properly certified by the authorities in Taiwan, from the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978 as amended.

SUMMARY: On April 23, 1976, a letter dated April 19, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the Federal Register (41 FR 17009), which designated three additional items for exemption from the bilateral textile agreement. One of those items was traditional Chinese padded jackets. On November 2, 1978, a letter dated October 30, 1978 was published in the Federal Register (43 FR 51125) amending the definition for traditional Chinese padded jackets. The definition for these jackets is being further amended to accommodate the following:

Traditional Chinese Garments:

1. *Jackets,* three-quarter length or shorter, of woven fabric, usually with Chinese figures in the weave but may be plain/woven otherwise figured or printed. They have a low mandarin collar, long sleeves and full frontal openings, with "frog" type closures (looped fastenings made of braid, cording, etc., used with a matching knot or toggle of the same material).

2. *Fur or imitation fur-lined jackets,* which may or may not be reversible and are otherwise identical in appearance and construction with the jackets described above.

3. *Vests,* sleeveless garments extending from the neck area to waist with or without pockets at the waist. They are otherwise identical in appearance and construction with the jackets described above.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, International Trade Administration

November 7, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of October 30, 1976, which amended the definition for traditional Chinese padded jackets from Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 1, 1980, to further amend the definition for traditional Chinese padded jackets in the directive of October 30, 1978 to include the following:

Traditional Chinese Garments:

1. *Jackets,* three-quarter length or shorter, of woven fabric, usually with Chinese figures in the weave but may be plain/woven otherwise figured or printed. They have a low mandarin collar, long sleeves and full frontal openings, with "frog" type closures (looped fastenings made of braid, cording, etc., used with a matching knot or toggle of the same material).

2. *Fur or imitation fur-lined jackets,* which may or may not be reversible and are otherwise identical in appearance and construction with the jackets described above.

3. *Vest,* sleeveless garments extending from the neck area to waist with or without pockets at the waist. They are otherwise identical in appearance and construction with the jackets described above.

The actions taken with respect to the Government of Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-36413 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 21, 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 29, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 57755) of proposed addition to Procurement List 1981, November 12, 1980 (45 FR 74836).

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 1981:

Class 7920

Sponge, Plastic
7920-00-633-9908
7920-00-633-9911
7920-00-633-9915

7920-00-685-4152

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36370 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1981 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 24, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1981, November 12, 1980 (45 FR 74836):

U.S. Postal Service Item

Seat Cover
P.S. Item No. 054-B

Class 4240

Bag, Waterproofing
4240-00-377-9401

Class 5510

Lath, Wood
5510-00-NSH-0002 (⅜ x 1½ x 36")
5510-00-NSH-0003 (⅜ x 1½ x 48")
(Requirements for Bureau of Land Management in the States of Washington and Oregon)

Class 7210

Pillowcase, Disposable, Non-Woven Fabric
7210-00-852-3417
Pillowcase, Flame-proof, Disposable
7210-00-883-8494

SIC 7542

Carwash Service
Bureau of Land Management
Medford District Office
Medford, Oregon

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36372 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement list.

SUMMARY: This action deletes from Procurement List 1981 services provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 21, 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 September 19, 1980 and September 26, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 62520 and 45 FR 63898) of proposed deletions from Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby deleted from Procurement List 1981:

SIC 7349

Campground Cleanup and Trash Removal
Pole Mountain and Centennial Areas
Forest Service
Laramie, Wyoming
Janitorial/Custodial
Department of Energy
Offices at Rogers Hotel and
Offices at First Street Building
Idaho Falls, Idaho

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36370 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Establishment Correction

In FR Doc. 80-35153 appearing at page 74836 in the issue for Wednesday, November 12, 1980, make the following corrections:

1. On page 74836, second column, under Class 1560, third line, the second four-digit number now reading "4209" should read "0409".

2. On page 74837, second column, under Class 6532, Gown, Hospital, Patient's Bedshirt, the third four-digit number now reading "6530" should read "6532"; under Gown, Hospital Personnel, the third four-digit number now reading "6530" should read "6532"; under Gown, Operating, Surgical, the third four-digit number now reading "6530" should read "6532"; under Rove, Dressing, Nomex, the third four-digit number now reading "6530" should read "6532"; under Smock, Man's Dental Operating, the third and seventh four-digit numbers now reading "6530" should read "6532".

3. In the third column on page 74837, under Trousers, Operating, Surgical, the third and seventh four-digit numbers now reading "6530" should read "6532"; under Class 6630, Tube, Bleeding, now reading (ICB) should read (IB) and the four-digit number now reading "6639" should read "6630"; under Class 6695, the first line should read: Kit, Spectro Oil Analysis (IB).

The following items were inadvertently omitted:

Class 7110

Tables, Steel (SH)
7110-00-149-2046
7110-00-149-2047

Class 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-989-2371
7195-00-989-2372
7195-00-990-0615
7195-00-844-9036
7195-00-844-9037
7195-00-844-9038
7195-00-843-7938
Costumer, Wood (SH)
7195-00-132-6642

Class 7210

Bedspread (IB)
7210-00-728-0186
7210-00-728-0188
7210-00-728-0190
7210-00-728-0173
7210-00-728-0176
7210-00-728-0178
7210-00-408-2800
7210-00-728-0187
7210-00-728-0189
7210-00-728-0191
7210-00-728-0175
7210-00-728-0177
7210-00-728-0179
Bedspring (IB)
7210-00-528-7540
7210-00-110-8104
7210-00-110-8105
7210-00-528-0984
7210-00-528-7541

4. On page 74838, the fourth line under Pillow, Bed, the second two-digit number now reading "00" should read "01"; in the second line under Class 7340, after the second two-digit number, insert "022".

5. In the second column on page 74838, under Pencil, Woodcased, with Imprinting, delete the two-digit number "00".

6. In the third column, on page 74838, in the seventh line from the bottom of the page, the first three-digit number now reading "989" should read "988".

7. In the first column on page 74839, in the first and second lines, the "p" should be a "-"; in the last line under Folder, File, the second four-digit number now reading "4043" should read "043"; in the first line under Paper, Teletypewriter, Roll, the second two-digit number now reading "00" should read "01" and in the second line, the first two-digit number now reading "01" should read "00".

8. In the second column on page 74839, third line from the top of the page, the Code now reading "600" should read "607"; in the last line under Decalcomania Max Speed, the second four-digit number now reading "9504" should read "9507"; in the line now reading "Decalcomania TS" the "TS" should read "TP"; under Class 7920, Broom, Push, the second three-digit number now reading "297" should read "2967"; in the second line under Brush, Floor Sweeping, the second three-digit number now reading "292" should read "264".

9. On page 74840, third column, under Class 8415, the second line under Apron, Food Handling, the last three-digit number now reading "587" should read "0587"; under Class 8430, Footwear Cover, the third four-digit number now reading "8415" should read "8430" and in the second line, the second two-digit number now reading "84" should read "8430"; under Class 8460, the first word in the first line now reading "Ket" should read "Kit".

10. In the second column on page 74841, in the twentieth and thirty-second lines from the top of the page, the word now reading "Market" should read "Marker"; under Pocket, Leather, the last letter now reading "D" should read "G".

11. In the third column on page 74841, Military Resale Stock No. 731, the word now reading "serfaces" should read "surfaces".

12. In the second column on page 74842, second line from the top, the Village Bldg. now reading "310D–4" should read "301D–4"; under SIC 7218, the first word now reading "Launday" should read "Laundry"; under SIC 7331, Mailing, should be included: Merit System Protection Board, Office of Special Counsel, 1717 H Street, N.W., Washington, D.C. (SH).

13. In the third column on page 74842, thirteenth line from the top of the page, the word now reading "Instutites" should read "Institutes" and the following office should be included under HEW: Health Services Administration, Rockville, Maryland (SH).

14. On page 74843, second column, under SIC 7369, the word in the first line now reading "Department" should read "Attendant".

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36369 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 80-5]

Gas-Fired Furnaces; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting it to issue a consumer product safety standard requiring gas-fired heating furnaces to be equipped with a sealed combustion system and an automatic shut-off when hazardous conditions, such as release of carbon monoxide, occur. The Commission is taking this action because it does not believe that the mandatory standard requested by the petitioner is necessary or appropriate at this time to address any risk of injury presented by gas furnaces. The Commission notes that the problem of indoor air pollution is a broad one, involving combustion products from fuel-fired appliances in general. Commission staff has two research and evaluation projects scheduled on indoor air pollution. The Commission believes it is premature to mandate petitioner's remedy until other remedies in the context of the larger issue can be studied.

ADDRESS: Copies of the petition and the staff's briefing materials on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th St. NW, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6453.

SUPPLEMENTARY INFORMATION:

1. Background

Section 10 of the Consumer Product Safety Act (CPSA) provides that any interested person pay petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the Federal Register.

Buy letter dated January 8, 1980, Albert Montague through this attorney, Robert Kaplan, petitioned the Commission to issue a consumer product safety standard requiring gas-fired heating furnaces to be equipped with a sealed combustion system and an automatic thermal shut-off. (Petition CP80–5)

The petitioner contends that this standard is necessary because of the high incidence of carbon monoxide poisonings related to the use of gas-fired furnaces. The petitioner states that he has developed a sealed combustion system (the "Bi-Loop") which also contains an automatic thermal switch which operates to shut down the furnace when a hazardous condition arises. The letter from the petitioner's attorney also states that recent efforts to make residences air that because of energy concerns is leading to internal pollution problems necessitating the use of sealed combustion furnaces in all homes.*

The Commission notes that a sealed combustion system such as that suggested by the petitioner has two vents to the exterior of a dwelling, one of which provides intake air for combustion. Conventional gas furnaces, by contrast, have only one vent and draw air for combustion from the environment immediate to the furnace.

2. Commission Decision on the Petition

Based on all available information, including information submitted by the petitioner and information gathered by Commission staff, the Commission has decided to deny this petition. The reasons for the Commission's decision are discussed below.

Information from the National Center for Health Statistics mortality files, the Commission's death certificate files, and the 1977 Housing Census indicates that during 1977 an estimated 80 deaths occurred as a result of carbon monoxide poisoning from furnaces. The Commission staff estimates that 56 of

*An earlier letter dated October 25, 1979 from Mr. Kaplan on behalf of this client was not filed as a petition because it concerned the same risk and product as earlier petitions (CP 77–8; CP 76–14) which were denied, and failed to provide new information justifying reconsideration by the Commission. (See 43 FR 1636 and 42 FR 1882 for notices of denial on these petitions.) The January 8, 1980 letter from Mr. Kaplan was determined to contain new information, specifically, the recent efforts to make residences air tight and the development of the sealed combustion "Bi-Loop" system.

these deaths may be attributed to gas furnaces based on the fact that 70 percent of all fuel-fired furnaces in use in 1977 were gas-fired. The staff notes, however, that gas furnace carbon monoxide deaths may actually be greater than the proportion of gas furnances in to all furnaces in use. This is because combustion products from gas-fired equipment, unlike those of oil-fired furnance, do not usually exhibit an odor which would warn of equipment malfunctions.

From a review of the Commission's death certificate files for the 5 year period 1974–78, the staff concludes that there is no trend of increased carbon monoxide poisoning deaths which would support the petitioner's contention that recent efforts to make homes air tight have greatly increased the dangers of carbon monoxide poisoning. Along similar lines, the Commission's engineering staff believes that with conventional techniques, it would not be possible to weatherize a home to the point where a properly functioning conventional gas-fired furnace would become hazardous.

Despite the lack of any trends showing an increasing numer of carbon monoxide poisonings associated with gas furnaces, the Commission notes that the injury data in absolute terms appears to indicate that there is a problem with carbon monoxide poisoning from gas furnaces. In addition, the Commission points out that a staff analysis of in-depth investigations indicates that a sealed combustion system could be effective in preventing some carbon monoxide poisonings and deaths associated with gas furnaces, namely those incidents involving inadequate venting of flue products, including blocked vents and chimneys that are too low to provide a proper draft and air flow.

The Commission believes, however, that any problem of carbon monoxide poisoning and gas furnaces should be addressed in the larger context of risks from combustion products from fuel-fired appliances in general. The Commission notes that it has scheduled a project (the "Tighter Thermal Envelope" project) to begin in Fiscal Year 1981 that, in cooperation with the Department of Energy (D.O.E.), the Environmental Protection Agency (EPA), and other federal agencies, will examine the health effects of reduced air infiltration in homes, In addition, Commission staff plans to continue an ongoing study of consumer exposure to low levels of certain combustion products. The Commission plans to test fuel-fired appliances under conditions of actual use to accurately measure the levels of carbon monoxide produced. The first product to be studied by the Commission will be the unvented gas-fired space heater. The Commission believes it would be premature at this time to mandate sealed combustion systems for gas-fired furnaces until other remedies such as carbon monoxide detectors or oxygen depletion sensors can be evaluated in the context of the larger issue of indoor air pollution and residential weatherization and the problems that may flow therefrom.

Accordingly, the Commission has concluded that the mandatory standard suggested by the petitioner is not necessary or appropriate at this time address any risk of injury presented by gas furnaces and has denied the petition.

Dated: November 18, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36385 Filed 11-20-80; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Sixth Progress Report On Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (January 4, 1979)

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Publication of Sixth Progress Report on Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions."

SUMMARY: On January 4, 1979, President Carter issued Executive Order 12114 entitled "Environmental Effects Abroad of Major Federal Actions." Executive Order 12114 requires all federal agencies taking major federal actions outside the U.S. which are encompassed by and not exempted from the Order, to have in effect procedures implementing the Order within 8 months after January 4, 1979 (i.e., by September 4, 1979). The Order requires agencies to consult with the Council on Environmental Quality and the Department of State before putting their implementing procedures in effect. The Council has previously published certain explanatory documents concerning implementation of E.O. 12114 (44 FR 18722, March 29, 1979). On September 26, 1979 the Council published its first progress report on agency procedures implementing the Executive Order (44 FR 55410), on November 6, 1979 a second progress report (44 FR 64101), on January 29, 1980 a third progress report (45 FR 6638), on March 25, 1980 a fourth progress report (45 FR 19293), and on June 25, 1980 a fifth progress report. The purpose of this sixth progress report is to provide an update on where affected agencies stand in this process.

FOR FURTHER INFORMATION CONTACT: C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; (202) 395–5750.

Sixth Progress Report on Agency Procedures Implementing E.O. 12114

The progress report lists federal agencies in two categories. In Category 1 are agencies that have published proposed or final procedures implementing Executive Order 12114. Category 2 lists agencies that have prepared draft procedures or are in the process of developing such procedures, and contains an estimated time such procedures will be published in the **Federal Register.**

Category 1—Federal agencies that have published proposed or final procedures implementing E.O. 12114

Agency for International Development: Final Procedures issued Oct. 23, 1980 (44 FR 70239).

Arms Control and Disarmament Agency: Proposed procedures contained in NEPA Procedures issued Oct. 21, 1980 (45 FR 69510).

Department of Agriculture: Final Procedures issued June 19, 1980 (44 FR 41583).

Department of Commerce: Proposed Procedures issued Feb. 12, 1980. (45 FR 9307).

National Oceanic and Atmospheric Administration: Final Procedures contained in NEPA procedures paragraphs 10 and 12, issued July 24, 1980 (45 FR 49312).

Department of Defense: Final Procedures issued April 12, 1979 (44 FR 21786).

Army Corps of Engineers: Final Procedures contained in NEPA procedures, paragraphs 25(b)(3), issued Aug. 25, 1980 (45 FR 56760).

Department of the Army: Final Procedures contained in Subpart H 32 CFR 651.34 *et seq.*, issued Oct. 20, 1980 (45 FR 69215).

Department of Energy: Proposed Guidelines issued Sept. 6, 1979 (44 FR 52146).

Department of State: (1) Foreign Affairs Manual Circular No. 807A, Procedures Implementing E.O. 12114, (except nuclear actions) Nov. 21, 1979 (44 FR

67004). (2) "Unified Procedures Applicable To Major Federal Actions Relating To Nuclear Activities Subject To Executive Order 12114," Nov. 13, 1979 (44 FR 65560).

Department of Transportation: Contained in NEPA procedures (DOT Order 5610.1C) issued Oct. 1, 1979 (44 FR 56420), Paragraph 16.

Department of the Treasury: Final Procedures issued July 15, 1980 (45 FR 47625).

Environmental Protection Agency: Proposed Procedures implementing E.O. 12114, Nov. 29, 1979 (44 FR 68776).

Export-import Bank of the United States: Final Procedures issued Aug. 20, 1979 (44 FR 50813).

Federal Maritime Commission: Final Procedures contained in NEPA procedures issued May 21, 1980 (45 FR 33996).

National Aeronautics and Space Administration: Contained in NEPA procedures, Section 1216.321 issued July 30, 1979 (44 FR 44490–44491).

Category 2—Federal agencies scheduled to publish procedures implementing E.O. 12114

Department of the Interior: Draft procedures implementing E.O. 12114 are under preparation. These procedures are expected to be published by Dec. 31, 1980.

Dated: November 18, 1980.

C. Foster Knight,

Acting General Counsel.

[FR Doc. 80-36484 Filed 11-20-80; 8:45 am]

BILLING CODE 3125-01-M

Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). 43 FR 55978–56007; 40 CFR 1500–08). Section 1507.3 of the regulations provides that each agency of the Federal Government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the ninth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, D.C. 20006; 202–395–5750.

Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the **Federal Register**, pages 55978–56007 and in volume 40 of the Code of Federal Regulations, parts 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the **Federal Register** for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, 1979 a number of Federal agencies did not meet this deadline. We stress, however, that the CEQ regulations are in effect now and are binding on all agencies of the Federal government now, whether or not the agencies are on time or late with their own procedures.

The Council published its first progress report on agency implementing procedures on May 7, 1979, its second report on July 23, 1979, its third report on September 26, 1979, its fourth report on November 2, 1979, its fifth report on December 14, 1979, its sixth report on January 29, 1980, its seventh report on March 25, 1980, and its eight report on June 25, 1980 (44 FR 26781–82; 44 FR 43037–38; 44 FR 55408–55410; 44 FR 63132–63133; 44 FR 72622–72623; 45 FR 6638–6640; 45 FR 19294; 45 FR 42786). The ninth progress report appears below. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category #1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the **Federal Register.**

Advisory Council on Historic Preservation, 45 FR 4353 (Jan. 22, 1980).

Agency for International Development, 45 FR 70239 (Oct. 23, 1980).

Central Intelliigence Agency, 44 FR 45431 (Aug. 2, 1979).

Consumer Product Safety Commission, 45 FR 69433 (Oct. 21, 1980).

Department of Agriculture, 44 FR 44802 (July 30, 1979).

- Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)].
- Forest Service, 44 FR 44718 (July 30, 1979).
- Soil Conservation Service, 44 FR 50576 (Aug. 29, 1979).
- Rural Electrification Adminstration, 45 FR 6592 (Jan. 29, 1980).

Department of Commerce, 45 FR 47898 (July 17, 1980).

- Economic Development Administration, 45 FR 63310 (Sept. 24, 1980).
- National Oceanic and Atmospheric Administration, 45 FR 49312 (July 24, 1980).

Department of Defense, 44 FR 46841 (Aug. 9, 1979).
Army Corps of Engineers, 45 FR 56790 (Aug. 25, 1980).
Department of the Army, 45 FR 69215 (Oct. 20, 1980).
Department of Energy, 45 FR 20694 (Mar. 28, 1980); proposed amendments for categorical exclusions for Fuel Use Act, 45 FR 53199 (Aug. 11, 1980).
Department of the Interior (revised), 45 FR 27541 (April 23, 1980).
Fish and Wildlife Service, 45 FR 47941 (July 17, 1980).
Water and Power Resources Services, 45 FR 47944 (July 17, 1980).
Department of State, 45 FR 59553 (Sept. 10, 1980).
Department of Transportation, 44 FR 56420 (Oct. 1, 1979).
Coast Guard, 45 FR 32816 (May 19, 1980).
Federal Aviation Administration, 45 FR 2244 (Jan. 10, 1980).
Federal Highway Administration, issued jointly with UMTA, 45 FR 71968 (Oct. 30, 1980).
Federal Railroad Administration, 45 FR 40854 (June 16, 1980).
Urban Mass Transportation Administration, issued jointly with FHWA, 45 FR 71968 (Oct. 30, 1980).
Department of the Treasury, 45 FR 1828 (Jan. 8, 1980).
Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979).
Export-Import Bank, 44 FR 50810 (Aug. 30, 1979).
Federal Emergency Management Agency, 45 FR 41141 (June 18, 1980); proposed amendments for categorical exclusions, 45 FR 67886 (Oct. 14, 1980).
Federal Maritime Commission, 45 FR 33996 (May 21, 1980).
Federal Railroad Administration, 45 FR 40854 (June 16, 1980).
General Services Administration, 45 FR 83 (Jan. 2, 1980).
Public Buildings Service (see 44 FR 65675, Nov. 14, 1979).
International Communications Agency, 44 FR 45489 (Aug. 2, 1979).
Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979).
National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [corrections: 44 FR 49650 (Aug. 24, 1979); 44 FR 69920 (Dec. 5, 1979)].
National Capitol Planning Commission, 44 FR 64923 (Nov. 8, 1979)
National Science Foundation, 45 FR 39 (Jan. 2, 1980).
Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979). [NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114 cited above.]
Postal Service, 44 FR 63524 (Nov. 5, 1979).
Small Business Administration, 45 FR 7358 (Feb. 1, 1980).
Tennessee Valley Authority, 45 FR 54511 (Aug. 15, 1980).
Veteran's Administration, 45 FR 62800 (Sept. 22, 1980).
Water Resources Council, 44 FR 69921 (Dec. 5, 1979).

Category #2: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have appeared in the **Federal Register.** Those agencies whose final procedures are expected within 30 days are marked with a single asterisk (*); those expected within 60 days by a double asterisk (**).
ACTION, 44 FR 60110 (Oct. 18, 1979).
Arms Control and Disarmament Agency, 45 FR 69510 (Oct. 21, 1980).
Civil Aeronautics Board, 44 FR 45637 (Aug. 3, 1979)
[Reissuance of part: 45 FR 16132 (Mar. 12, 1980)].
Department of Agriculture agencies
Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]; procedures published as final without CEQ approval, 45 FR 32312 (May 16, 1980).
Food Safety and Quality Service, 45 FR 60460 (Sept. 12, 1980).
Science and Education Administration, 45 FR 11147 (Feb. 20, 1980).
Notice of proposed categorical exclusion of certain Department of Agriculture agency programs, 45 FR 38092 (June 6, 1980).
Department of Defense agencies
Department of the Air Force, 44 FR 44118 (July 26, 1979)*
Farm Credit Administration, 45 FR 55213 (Aug. 19, 1980).
Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979).
Department of Health and Human Services (formerly HEW), 45 Fr 14651 (Mar. 6, 1980)*.
Food and Drug Administration, 44 FR 71742 (Dec. 11, 1979).
Department of Housing and Urban Development (agency wide procedures), 44 FR 67906 (Nov. 27, 1979).
Title I Programs under Housing and Community Development Act, see Appendix I.
Department of the Interior agencies
Bureau of Indian Affairs, 45 FR 49368 (July 24, 1980).**
Heritage Conservation and Recreation Service, 44 FR 49523 (Aug. 23, 1979).*
Lowell Historic Preservation Commission, 45 FR 57556 (Aug. 28, 1980).*
Bureau of Mines, 45 FR 10043 (Feb. 14, 1980).*
Office of Surface Mining Reclamation and Control, 45 FR 10043 (Feb. 14, 1980).**
National Park Service, 45 FR 32126 (May 15, 1980).*
Department of Labor, 44 FR 69675 (Dec. 4, 1979); published as final without CEQ approval, 45 FR 51184 (Aug. 1, 1980).
Department of Justice, 44 FR 43751 (July 26, 1979).*
Drug Enforcement Agency, 44 FR 43754 (July 26, 1979).*
Immigration and Naturalization Service, 44 FR 43754 (July 26, 1979).*
Bureau of Prisons, 44 FR 43753 (July 26, 1979).*
Office of Justice, Assistance, Research and Statistics (formerly LEAA), 45 FR 45311 (July 3, 1980).*
Federal Communications Commission, 44 FR 38913 (July 3, 1979).
Federal trade Commission, 44 FR 42712 (July 20, 1979).
International Boundary and Water Commission (U.S. Section), 44 FR 61665 (Oct. 26, 1979).*
Interstate Commerce Commission, 45 FR 15236 (Mar. 10, 1980).
National Credit Union Administration, 45 FR 12211 (Feb. 25, 1980).
Nuclear Regulatory Commission, 45 FR 13739 (Mar. 3, 1980).
Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979).
Saint Lawrence Seaway Development Corp., 45 FR 46601 (July 10, 1980).

Category #3: Anticipate Publication of Proposed Procedures by Dec. 31, 1980

This category includes agencies that are expected to publish proposed procedures in the **Federal Register** by Dec. 31, 1980.
Bureau of Land Management.
Defense Logistics Agency.
Department of the Navy.
Farmers Home Administration.
Federal Reserve System.
Geological Survey.

Category #4: Publication of Proposed Procedures Delayed Beyond Dec. 31, 1980

This category includes agencies that are *not* expected to publish proposed procedures in the **Federal Register** by Dec. 31, 1980.

Appalachian Regional Commission.
Community Services Administration.

Federal Deposit Insurance Corporation.
Federal Home Loan Bank Board.
Federal Savings and Loan Insurance Corporation.
METRO.
National Highway Traffic Safety Administration.
Securities and Exchange Commission.

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Prior to promulgation of final procedures, agencies are required to submit the proposed final version of their procedures to the Council for review. When the Council finds that an agency's procedures conform with NEPA and the NEPA regulations, the Council sends a letter of approval to the agency after which the agency may adopt and publish its procedures in final form.

The following is an example of the approval letter:

Honorable R. Max Peterson,
Chief, Forest Service,
Department of Agriculture, Washington, D.C.

Dear Mr. Peterson: Section 1507.3 of the Regulations for Implementating The Procedural Provisions of the National Environmental Policy Act, 40 CFR 1500, *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations. Section 1507.3 also provides that final agency procedures shall be adopted only after review by the Council on Environmental Quality.

On June 12, 1979 your predecessor, Mr. John McGuire, transmitted for Council review final procedures developed by the Forest Service under Section 1507.3 of the NEPA regulations. These procedures were published in the **Federal Register** for public review and comment on April 29, 1979. The comment period on the procedures concluded May 31, 1979. The preamble to the procedures contains a point-by-point response to the major comments received on the procedures.

The Council has completed its review of the procedures developed by the Forest Service. Based on that review, the Council has determined that the procedures address all of the sections of the regulations required to be addressed by Section 1507.3(b) of the regulations. The procedures will take effect and supplement the NEPA regulations once they are published in final form in the **Federal Register.**

Yours truly,

Nicholas C. Yost,
General Counsel.

Approved

Advisory Council on Historic Preservation
Agency for International Development
Central Intelligence Agency
Consumer Product Safety Commission
Department of Agriculture
- Animal & Plant Health Inspection Service
- Forest Service
- Soil Conservation Service
- Rural Electrification Administration

Department of Commerce
- Economic Development Administration
- National Oceanic & Atmospheric Administration

Department of Defense
- Army Corps of Engineers
- Department of the Army

Department of Energy
Department of the Interior
- Fish and Wildlife Service
- Water and Power Resources Service

Department of State
Department of Transportation
- Coast Guard
- Federal Aviation Administration
- Federal Highway Administration & Urban Mass Transit Administration
- Federal Railroad Administration

Department of the Treasury
Environmental Protection Agency
Export-Import Bank
Federal Emergency Management Agency
Federal Maritime Commission
Federal Railroad Administration
General Services Administration
- Public Buildings Service

International Communications Agency
Marine Mammal Commission
National Aeronautics & Space Administration
National Capitol Planning Commission
National Science Foundation
Overseas Private Investment Corporation
Postal Service
Small Business Administration
Tennessee Valley Authority
Veteran's Administration
Water Resources Council

Disapproved

Department of Housing and Urban Development: proposed procedures implementing NEPA for the Urban Development Action Grant (UDAG) Program under Title I programs under Housing and Community Development Act.

Dated: November 18, 1980.

C. Foster Knight,
Acting General Counsel.

[FR Doc. 80-36479 Filed 11-20-80; 8:45 am]
BILLING CODE 3125-01-M

DEFENSE COMMUNICATIONS AGENCY

Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold closed meetings on December 4 and 5, 1980. The December 4 and 5, meetings will be at the Defense Communications Agency, Director's Management Information Center at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia.

The subject of the meetings will be AUTODIN II.

Any person desiring information about the Advisory Group may telephone (Area Code 202-692-1765) or write Chief Scientist—Associate Director, Technology, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

These meetings are closed because the material to be discussed is classified requiring protection in the interest of National Defense.

B. R. Warren,
Chief, Management Engineering Division.

[FR Doc. 80-36481 Filed 11-20-80; 8:45 am]
BILLING CODE 3610-05-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army; Notice of Intent; Albuquerque District Corps of Engineers Is in the Process of Preparing an Environmental Impact Statement for Proposed Flood Control Measures Along the Arkansas River, Oak Creek, and Coal Creek Near the Town of Florence, Colo.

AGENCY: U.S. Army Corps of Engineers, Albuquerque District.

ACTION: Preparation of an Environmental Impact Statement (EIS).

SUMMARY: 1. *Proposed Action and Alternatives:* The authorized action considered by the EIS is the construction of setback levees on the west bank of a six mile stretch of the Arkansas River near Florence. Other authorized measures included dams on Coal and Oak Creeks and the diversion of Chandler Creek to the Oak Creek watershed. Along with the authorized project certain other measures were considered for Coal and Oak Creeks and the Arkansas River. These included various channel modifications to increase the capacities of Coal and Oak Creeks using concrete and gabion lined channels and non-structural measures in the Oak and Coal Creeks and Arkansas

River floodplains. During Stage II studies, the authorized plan as well as many of the other plans being considered were eliminated from further study due to economic, engineering and social infeasibility. Stage III studies and the EIS will concentrate on various channel improvements on Oak Creek, various channel improvements on Coal Creek and non-structural measures within the 25 year floodplain of the Arkansas River.

2. *Public Involvement Process:* Public involvement in the planning process has, to date, involved one formal public meeting in May 1980 and numerous meetings with Florence city officials, Fremont County officials, local citizens, and state and Federal agencies. Another public meeting is currently scheduled for August 1981 and active coordination will continue with local citizens as well as state, county and local officials. As presently scheduled, the draft Phase I General Design Memorandum and draft EIS will be circulated for public review in September 1981. Affected federal, state and local agencies and other interested or affected private organizations and parties and individuals are invited to submit comments on what they consider to be the important environmental questions or issues which should be addressed in the Environmental Impact Statement. Interested parties are also invited to submit comments on the draft EIS when it is circulated for field level review.

3. *Significant Issues Analyzed:* Significant issues to be analyzed in the EIS include the impacts of the proposed work on the faunal and floral resources of the Arkansas River and adjacent lands, impacts on cultural and historic resources, and the potential impacts on water quality in the Arkansas River. Additionally, a comparison will be made of the current and projected future conditions with and without the project and the various alternatives and means of mitigating environmental losses which would result from implementation of the recommended project. .

4. *Public Review:* The draft EIS should be circulated for public review in September 1981.

5. *Further Information:* Questions about the study and the draft EIS may be answered by: Mr. William Tully, USAED, Albuquerque, P.O. Box 1580, Albuquerque, NM 87103, Phone: Comm (505) 766–2657, FTS 474–2657.

Bernard J. Roth,

Colonel, CE, District Engineer.

[FR Doc. 80-36295 Filed 11-20-80; 8:45 am]

BILLING CODE 3710-KK-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on December 10 and 11, from 8 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of cover and deception systems and procedures and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine Z. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone number (703) 756–1205.

Dated: November 17, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-36305 Filed 11-20-80; 8:45 am]

BILLING CODE 3810-71-M

Decision To Construct and Operate an Atlantic Coast Strategic Submarine Base at the Naval Submarine Support Base, Kings Bay, Georgia

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (Part 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces its decision to construct and operate a Strategic Submarine Base (SSB) at the Naval Submarine Support Base, Kings Bay, Georgia.

The decision will provide for the basing of one TRIDENT (or TRIDENT successor) submarine squadron, including strategic and defensive weapons storage and transfer, TRIDENT II missile production (if missile is approved), refit industrial support, complete refresher and off-crew training, waterfront support, possible administrative and personnel support, and on-base housing. Torpedo maintenance and TRIDENT I missile production will remain in Charleston, South Carolina.

Alternatives originally considered to Kings Bay as a potential Strategic Base were no action and four other candidate sites. The no-action alternative was considered unacceptable because of strategic defense needs. The four other candidate siting alternatives as discussed in the Environmental Impact Statement (EIS) were Narragansett Bay, Rhode Island; Cheatham Annex, Virginia; Charleston, South Carolina; and Mosquito Lagoon, Florida. The previously noted option for Kings Bay was selected as the site of the base to best satisfy operational requirements and minimize environmental impacts for the ashore-based TRIDENT facility. Additional alternative basing studies for training, strategic weapons, defensive weapons and certain support facilities were conducted and Kings Bay was selected as the site of training, strategic and defensive weapons storage, and other related support functions and facilities while TRIDENT I missile production and torpedo maintenance will remain in Charleston, South Carolina. Alternatives were examined at Kings Bay with regard to placement of waterfront facilities, ashore facilities, and dredge disposal sites. The selected configurations and facility sites were chosen to minimize environmental impact within operational guidelines. Of the waterfront configurations considered, the form selected minimizes dredging and loss of bay bottom area. Potential development beyond the existing and proposed facilities was also considered for an additional squadron of POSEIDON and/or TRIDENT submarines.

Based on comments received from the public and from Federal, state, and local agencies concerning the proposed action and the Draft Supplement EIS, the major environmental effects of, or reservations expressed concerning, the proposed action are loss of habitat, both aquatic and terrestrial, potential effects upon the Manatee and Indigo snake (as protected species), loss and/or alteration of wetlands and wooded swamps, potential fiscal consequences to local governments, and alterations to the rural nature of the immediate geographical area.

Considerable effort has gone into reducing and minimizing the potential loss of significant habitat during the master planning for facilities and on-

base operations. Additional commitments to mitigative measures have been included to offset the identified physical and socio-economic effects.

Mitigating actions by the Navy to offset the results of dredging include construction of inshore reefs for oyster and aquatic feeding habitat, monitoring of dredging operations to manage potential effects upon water quality, seasonal restrictions on blasting for construction dredging, establishment of a manatee alert/watch program as well as education and information programs for both contractor personnel and base-employed personnel. A positive result of the deeper bay habitat will be expected greater over-wintering protection of the white shrimp.

Mitigating actions by the Navy to offset the effects of dredge material disposal include creation of waterfowl and nesting bird habitats within the disposal areas, funding of a survey to be conducted by the United States Fish and Wildlife Service using the Habitat Evaluation Procedure (HEP) (and the development of a management plan based on the results of the HEP survey), use of an Indigo snake sighting program prior to construction in possible snake areas and excavation and/or preservation of eligible archeological sites in accordance with Federal procedures.

Mitigating actions by the Navy to offset the effects of facility construction include construction of retention ponds to reduce flow rates, and broad, flat drainage swales to offset the loss of on-site storage and existing vegetative buffer. Water quality monitoring will be expanded to include areas of A–1 development. The above mentioned HEP survey will also include the facility development areas. Wetlands and wooded swamps within proposed developed areas will be avoided and preserved to the extent practicable. Additionally, the Indigo snake survey program noted previously will be conducted prior to construction in snake areas.

Along with the stated monitoring, survey and management programs, the Navy will maintain established contact with cognizant state and Federal agencies to assure enforcement of the mitigation commitments defined in the Final Supplement to the Environmental Impact Statement.

Dated: November 17, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 80-36306 Filed 11-20-80; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and agenda of the forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 11–12, 1980.

ADDRESS: Room 205, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director Advisory Council on Education Statistics, National Center for Education Statistics, 400 Maryland Avenue, SW (Presidential Building) Washington, DC 20202, telephone number 301–436–7885.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, P.L. 93–380, (20 USC 122e–1(c)), to advise the Secretary of the Department of Education, and the Assistant Secretary for Educational Research and Inprovement and the Administrator of the National Center for Education Statistics; and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting of the Council is open to the public. The tentative agenda includes the Administrator's report on recent developments of the National Center for Education Statistics, and formulation of recommendations with regard to the Council's mandate to review annually the development of needs for qualified educational personnel. Council will work on its annual report, and the Council's Task Force on NCES Priorities and the Task Force on NCES Outputs will meet.

Records are kept of all Council proceedings. The records are available for public inspection between the hours of 8:00 AM and 4:30 PM, Monday through Friday, at the office of the Advisory Council on Education Statistics, 205 Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland.

Signed at Hyattsville, Maryland, November 17, 1980.

Marie D. Eldridge,

Administrator, National Center for Education Statistics.

[FR Doc. 80-36299 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: December 8, 1980 in conjunction with the American Vocational Association.

ADDRESS: The New Orleans Marriott Hotel, Canal and Chartres Streets, New Orleans, Louisiana, the Le Galerie 2 Room.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, DC (Tel: 202/376–8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto,

and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Council is open to the public, and the proposed agenda includes:

Call to Order at 1:00 P.M.

Comments on the Distribution of Federal Funds in Vocational Education
Student Vocational Organizations
Position on Reauthorization Issue
Review of Council Work Plan for FY 1981–82
Status Reports on NACVE Projects and Studies

Records shall be kept of all Council proceedings, and will be available for public inspection at the office of the National Advisory Council on Vocational Education, 425 13th Street NW., Suite 412, Washington, D.C. 20004, from 9:00 A.M. to 5:00 P.M.

Signed at Washington, D.C., on November 18, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80-36328 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

Minority Institutions Science Improvement Program (MISIP); Applications for New Awards for Fiscal Year 1981

AGENCY: Department of Education.

ACTION: Application notice for receipt of applications for new awards for fiscal year 1981.

Applications are invited for new awards under the Minority Institutions Science Improvement Program which is administratively part of the Fund for the Improvement of Postsecondary Education in the Department of Education.

Authority for this program is contained in the Department of Education Organization Act (20 U.S.C. 344) which provides for the transfer of the Minority Institutions Science Improvement Program, established under the National Science Foundation Act (42 U.S.C. 1862), from the National Science Foundation (NSF) to the Education Department.

Closing Date for Transmittal of Applications

Applications for Institutional, Design and cooperative Project Awards must be mailed or hand-delivered by January 30, 1981. Applications for Special Project Awards must be mailed or hand-delivered by March 2, 1981.

Applications Delivered by Mail

An application sent by mail must be addressed to the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue SW., Room 3123, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by its local post office.

An applicant is encourged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue SW., Room 3123, Washington, D.C.

The Secretary will accept hand-delivered applications betwen 8:00 a.m., and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for Institutional Design or Cooperative Project Awards that are hand-delivered will not be accepted after 4:30 p.m. on January 30, 1981. Applications for Special Project Awards that are hand-delivered will not be accepted after 4:30 p.m. on March 2, 1981.

Program Information

The Secretary solicits applications from predominantly minority institutions and certain other eligible institutions which propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into scientific careers.

Support under this program is provided to eligible institutions in four ways: (1) Design grants to minority institutions without formal planning capabilities to provide assistance in developing long-range science improvement plans; (2) grants to individual minority institutions to support the implmentation of comprehensive science improvement plans; (3) grants to nonprofit, accredited colleges and universities to support cooperative efforts designed to strengthen their science and engineering programs; and (4) grants to eligible institutions or organizations in support of special projects designed to implement Program goals.

The Secretary considers making a grant to an eligible institution only if an application has been prepared and submitted according to—

(a) The regulations in Part 34 CFR 735;

(b) The applicable provisions in EDGAR; and

(c) The instructions and forms included in the *Guide for Preparation of Proposals for the Minority Institutions Science Improvement Program.* Publication No. ED 0007.

Available Funds

Approximately $4.0 million is estimated to be available for Institutional and Cooperative Project Awards in fiscal year 1981. It is estimated that these funds will support approximately 20 awards. The maximum amount for an Institutional or Cooperative Project Award is $300,000 for a 36-month period. Approximately $1.0 million is estimated to be available for Special Project and Design Awards in fiscal year 1981. It is estimated that these funds will support approximately 20 Special Project and Design Project Awards. The maximum amount for a Special Project Award is $150,000 for a 24-month project period. The maximum amount for a Design Project Award is $20,000 for a 12-month period.

However, these estimates do not bind the Secretary to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute and regulations.

Application Forms

Application forms and program information packages may be obtained from Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of

Postsecondary Education, Department of Education, 400 Maryland Avenue, SW., Room 123, Washington, D.C. 20202. Telephone: Dr. Argelia Velez-Rodriguez (202) 282–7760.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Proposed regulations governing the Minority Institutions Science Improvement Program published in the November 5, 1980 issue of the **Federal Register** (Vol. 45, No. 216, p. 73514) as proposed 34 CFR Part 735; and,

(b) Education Division General Administrative Regulations (EDGAR), (45 CFR Part 100a and 45 CFR Part 100c).

If substantive changes are made in the final regulations, applicants will be given an opportunity to amend their applications.

Further Information

For further information, contact Dr. Argelia Velez-Rodriguez, the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202. Telephone: (202) 282–7760.

(Catalog of Federal Domestic Assistance No. 84.120, Minority Institutions Science Improvement Program)

F. James Rutherford,

Assistant Secretary, OERI.

[FR Doc. 80-36343 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Finality of 1978 Oil Pipeline Valuation Reports

November 18, 1980.

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative 1978 annual valuation reports for the following common carriers by oil pipelines:

Acorn Pipe Line Company, Docket No. PV–1364
Allegheny Pipeline Company, Docket No. PV–1414
Amdel Pipeline Inc., Docket No. PV–1439
American Petrofina Pipe Line Company, Docket No. PV–1440
Amoco Pipeline Company, Docket No. PV–1302
Arapahoe Pipe Line Company, Docket No. PV–1378
ARCO Pipe Line Company, Docket No. PV–1329
Ashland Pipe Line Company, Docket No. PV–1291
Badger Pipe Line Company, Docket No. PV–1381
Belle Fourche Pipeline Company, Docket No. PV–1430
Black Lake Pipe Line Company, Docket No. PV–1425
Buckeye Pipe Line Company, Docket No. PV–1322
Butte Pipe Line Company, Docket No. PV–1382
Calnev Pipe Line Company, Docket No. PV–1404
Chevron Pipe Line Company, Docket No. PV–1416
Cheyenne Pipeline Company, Docket No. PV–1368
Chicap Pipe Line Company, Docket No. PV–1427
Cities Service Pipe Line Company, Docket No. PV–1312
Collins Pipeline Company, Docket No. PV–1433
Colonial Pipeline Company, Docket No. PV–1422
Continental Pipe Line Company, Docket No. PV–1316
Cook Inlet Pipe Line Company, Docket No. PV–1426
CRA, Inc., Docket No. PV–1341
Crown-Rancho Pipe Line Corporation, Docket No. PV–1365
Diamond Shamrock Corporation, Docket No. PV–1349
Dixie Pipeline Company, Docket No. PV–1411
Emerald Pipe Line Corporation, Docket No. PV–1385
The Eureka Pipe Line Company, Docket No. PV–1338
Explorer Pipeline Company, Docket No. PV–1441
Exxon Pipeline Company, Docket No. PV–1394
Four Corners Pipe Line Company, Docket No. PV–1389
Getty Pipeline, Inc., Docket No. PV–1402
Gulf Central Pipeline Company, Docket No. PV–1436
Gulf Refining Company, Docket No. PV–1333
Hess Pipeline Company, Docket No. PV–1409
Hydrocarbon Transportation, Inc., Docket No. PV–1431
Jayhawk Pipeline Corporation, Docket No. PV–1406
Jet Lines, Inc., Docket No. PV–1413
Kaneb Pipe Line Company, Docket No. PV–1375
Kaw Pipe Line Company, Docket No. PV–1299
Kenai Pipe Line Company, Docket No. PV–1399
Kerr-McGee Pipeline Corporation, Docket No. PV–1429
Kiantone Pipeline Corporation, Docket No. PV–1435
Lake Charles Pipe Line Company, Docket No. PV–1419
Lakehead Pipe Line Company, Inc., Docket No. PV–1354
Laurel Pipe Line Company, Docket No. PV–1403
Marathon Pipe Line Company, Docket No. PV–1392
Michigan-Ohio Pipeline Corporation, Docket No. PV–1357
Mid-America Pipeline System, Docket No. PV–1395
Mid-Valley Pipeline Company, Docket No. PV–1353
Minnesota Pipe Line Company, Docket No. PV–1384
Mobil Pipe Line Company, Docket No. PV–1311
National Transit Company, Docket No. PV–1332
Ohio River Pipe Line Company, Docket No. PV–1292
Olympic Pipe Line Company, Docket No. PV–1417
Paloma Pipe Line Company, Docket No. PV–1420
Phillips Pipe Line Company, Docket No. PV–1320
Pioneer Pipe Line Company, Docket No. PV–1372
Plantation Pipe Line Company, Docket No. PV–1343
Platte Pipe Line Company, Docket No. PV–1367
Portal Pipe Line Company, Docket No. PV–1410
Portland Pipe Line Corporation, Docket No. PV–1347
Powder River Corporation, Docket No. PV–1347
Pure Transportation Company, Docket No. PV–1327
Santa Fe Pipeline Company, Docket No. PV–1428

The Shamrock Pipe Line Corporation, Docket No. PV–1369
Shell Pipe Line Corporation, Docket No. PV–1326
Sohio Pipe Line Company, Docket No. PV–1335
Southcap Pipe Line Company, Docket No. PV–1424
Southern Pacific Pipe Lines, Inc., Docket No. PV–1393
Sun Oil Line Company of Michigan, Docket No. PV–1370
Sun Pipe Line Company, Docket No. PV–1315
Tecumseh Pipe LIne Company, Docket No. PV–1386
Texaco-Cities Service Pipe Line Company, Docket No. PV–1300
Texas Eastern Transmission Corporation, (Little Big Inch Division), Docket No. PV–1408
Texas-New Mexico Pipe Line Company, Docket No. PV–1293
The Texas Pipe Line Company, Docket No. PV–1330
Texoma Pipe Line Company, Docket No. PV–1449 (1976 Report)
Trans Mountain Oil Pipeline Corporation, Docket No. PV–1379
Trans-Ohio Pipeline Company, Docket No. PV–1412
West Emerald Pipe Line Corporation, Docket No. PV–1388
West Shore Pipe Line Company, Docket No. PV–1396
West Texas Gulf Pipe Line Company, Docket No. PV–1362
White Shoal Pipeline Corporation, Docket No. PV–1421
Williams Pipe Line Company, Docket No. PV–1423
Wolverine Pipe Line Company, Docket No. PV–1377
Wyco Pipe Line Company, Docket No. PV–1355
Yellowstone Pipe Line Company, Docket No. PV–1373

Section 19a(h) of the Interstate Commerce Act provides that if no protest is filed within thirty days, the valuation shall become final as of the date thereof. Notice is hereby given that no protest to the valuation reports for any of these carriers has been received and that each valuation report is final as of the date it was issued by the Board.

Francis J. Connor,

Adminstrative Officer, Oil Pipeline Board.

[FR Doc. 80–36320 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. SA80–61]

Bird & Son, Inc.; Application for Exemption From Incremental Pricing

Issued November 17, 1980.

Take notice that on December 11, 1979, Bird & Son, Incorporated (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for an exemption from incremental pricing under Title II of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et. seq.* (Supp. II 1978). Applicant's petition for exemption which was filed under section 206(d) of the NGPA, was concurrently filed with a request for an adjustment under section 502(c) of the NGPA.[1]

Specifically, Applicant seeks small boiler fuel exemption from incremental pricing of natural gas used at its Franklin, Ohio, manufacturing plant. Applicant states that subjecting this facility to incremental pricing would result in special hardship, inequity, and unfair distribution of burdens because October 1977 was the only month in 1977 during which daily average consumption of boiler fuel exceeded the 300 Mcf per day cut-off for small boiler fuel users. *See,* 18 CFR 282.202(g) and 203(a).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, 44 FR 18961, March 30, 1979. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed by December 8, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36433 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA80–81]

Chuck & Jim's Mobil; Filing of Petition for Review

Issued November 17, 1980.

Take notice that Chuck & Jim's Mobil on April 17, 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 December 2, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 December 2, 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, SW., 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., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36430 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[1] Public notice of Bird and Son's filing for an adjustment was issued on January 7, 1980 and on May 9, 1980 an Order Denying Exemption From Incremental Pricing was issued.

[Docket No. ID–1846]

William G. Counsil; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 19, 1980, William G. Counsil, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Senior Vice President, Connecticut Light and Power Company, Public Utility.
Senior Vice President, Hartford Electric Light Company, Public Utility.
Senior Vice President, Western Massachusetts Electric Company, Public Utility.
Senior Vice President, Holyoke Water Power Company, Public Utility.
Senior Vice President, Holyoke Power and Electric Company, Public Utility.
Senior Vice President, Connecticut Yankee Atomic Power Co., Public Utility.

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 or 1.10). All such petitions or protests should be filed on or before December 1, 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. 80-36423 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3283]

City of Holyoke, Mass.; Application for Preliminary Permit

November 17, 1980.

Take notice that the City of Holyoke, Massachusetts (Applicant) filed on July 31, 1980, and revised on October 8, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for proposed Project No. 3283 to be known as the Hadley Falls Unit Three Project located on the Connecticut River in Hampden County, Massachusetts. The project would utilize the facilities of the Hadley Falls Project FERC No. 2004, which is licensed to the Holyoke Water Power Company. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George Leary, Holyoke Gas and Electric Department, 70 Suffolk Street, Holyoke, Massachusetts 01040, and Atty. Francis E. Francis, Spiegel and McDiarmid, 2600 Virginia Avenue, N.W., Washington, D.C. 20037. Any person who wishes to file a response to this notice shoud read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—As described in the application, the proposed project would consist of a new powerhouse located at the south end of the Hadley Falls Dam, and appurtenant facilities.

The licensed Hadley Falls Project No. 2004 currently includes two 15 MW generating units, one constructed and the other unconstructed. The proposed Hadley Falls Unit Three Project No. 3283 would include a third 15 MW generating unit, to be located adjacent to the other two units.

The Applicant estimates that the average annual energy output would be between 19,000 and 30,000 MWh.

Purpose of Project.—Energy generated by Project No. 3283 would be used by the Applicant for public utility purposes.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate project feasibility and prepare preliminary designs and environmental assessments. Depending upon the outcome of the studies, the Applicant would decide how to proceed with further environmental studies, project designs, and an application for an FERC license.

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 30, 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 March 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 received on or before December 30, 1980.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3283. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36434 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-15-000]

Raymond Lally, T/A, Lally's Chevron, Inc.; Filing of Petition for Review

November 17, 1980.

Take notice that Raymond Lally, T/A, Lally's Chevron, Inc. on October 23, 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 December 2, 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 December 2, 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. 80–36425 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA81–13–000]

Les Francis Auto Rental; Filing of Petition for Review

Issued November 17, 1980.

Take notice that Les Francis Auto Rental on October 23, 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 December 2, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 December 2, 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, SW., 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., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36424 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ST81–31–000]

Louisiana Intrastate Gas Co.; Application for Approval of Rates

November 17, 1980.

Take notice that on October 30, 1980, Louisiana Intrastate Gas Company (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81–31–000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it and Texas Gas have entered into an agreement dated September 2, 1980, whereby Applicant is to provide a transportation service for Texas Gas for a two-year period. It is further stated that under the agreement, Applicant is to accept gas from Texas Gas for its account at specified points of interconnection between the parties and redeliver thermally equivalent volumes to Texas Gas for resale.

Applicant proposes a base transportation charge of 20.0 cents per million Btu of gas redelivered as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36427 Filed 11–20–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ST81–32–000]

Louisiana Intrastate Gas Co.; Application for Approval of Rates

November 17, 1980.

Take notice that on October 30, 1980, Louisiana Intrastate Gas Company (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81–32–000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for The Gas Division of Central Louisiana Electric Company (Central Louisiana), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it and Central Louisiana have entered into an agreement dated October 1, 1980, whereby Applicant is to provide a transportation service for Central Louisiana for a period of two years. It is further stated that under the agreement, Applicant is to accept gas from Southern Natural Gas Company and Trunkline Gas Company for the account of Central Louisiana and redeliver such gas to Central Louisiana at specified points of interconnection between the parties. It is indicated that the subject gas is being sold to Central Louisiana by Consumers Power Company (Consumers) pursuant to blanket certificate authorization granted to Consumers by the Commission.

Applicant proposes a base transportation charge of 20.0 cents per million Btu of gas redelivered as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36428 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1752]

Leon E. Maglathlin, Jr.; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 5, 1980, Leon E. Maglathlin, Jr., pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Vice President and Director, Connecticut Light and Power Co., Public Utility.
Vice President and Director, Hartford Electric Light Co., Public Utility.
Vice President and Director, Western Massachusetts Electric Company, Public Utility.
Vice President and Director, Holyoke Water Power Company, Public Utility.
Vice President and Director, Holyoke Power and Electric Company, Public Utility.

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 Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 1, 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. 80-36426 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-11-000]

Michigan Wisconsin Pipe Line Co.; Petition for Issuance of an Order

November 17, 1980.

Take notice that on October 31, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a Petition For Issuance of An Order pursuant to Section 16 of the Natural Gas Act as amended and § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) thereunder, to authorize it to continue rate base treatment of certain advance payments which it made to various producers during 1975 and 1976, all as more fully set forth in the petition which is on file with the Commission and available for public inspection.

The petition indicates that Michigan Wisconsin advanced an aggregate of $11,683,267 to various producers to obtain the dedication of gas reserves underlying Eugene Island Block 24, Garden Banks Area Blocks 236 and 237, Ship Shoal Area Block 135, South March Island Area Block 265, Vermilion Area Block 397 and West Cameron Area Blocks 115 and 552, all in offshore Louisiana, and High Island Area Blocks A-499, A-542, A-560, A-561 and A-571 and Mustang Island Area Block A-85, all in offshore Texas. The petition further indicates that commencement of production for the aforementioned blocks has been delayed beyond the expiration of a five year period, and that absent the order requested by the instant petition, Michigan Wisconsin will be required to transfer the advances from Account No. 166 and cease rate base treatment thereof.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 8, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36429 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-547]

NGPL-Canyon Compression Co.; Request for Determination

November 17, 1980.

Take notice that on October 20, 1980, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-547 a request for determination that CIG's costs incurred in conjunction with the service to be rendered by NGPL-Canyon Compression Company in said docket either would not be subject to Section 2.102 of the Commission's General Policy and Interpretations or that while subject to § 2.102, such cost's incurrence would be deemed prudent, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is asserted that it would be appropriate in considering the application in the instant docket for the Commission to determine whether it would be prudent for CIG to agree to and pay for such service. CIG states that economy of regulation and fundamental fairness necessitate that the proceeding be used to help determine the true cost of said service to CIG, its customers and shareholders. It is asserted that the granting of CIG's request would not harm any other party.

Any person desiring to be heard or to make any protest with reference to said request should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36431 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3493]

Noah Corp.; Application for Preliminary Permit

November 17, 1980.

Take notice that Noah Corp. (Applicant) filed on September 22, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16

U.S.C. 791(a)–825(r)) for proposed Project No. 3493 to be known as the Summersville Project located on the Gauley River in Nicholas County, West Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: James B. Price, Ph. D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Summersville Dam and would consist of: (1) Penstocks which would utilize the existing outlet works in the right abutment of the dam; (2) a powerhouse containing generating units having a rated capacity of 28,000 kW; (3) a tailrace; (4) a new transmission line and switchyard; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 147,000,000 kWh.

Propose of Project—Project energy would be sold to a public or private utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies. Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $150,000.

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 January 19, 1981, 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 March 20, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1980). 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 January 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3493. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36435 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3579-000]

Noah Corp.; Application for Preliminary Permit

November 17, 1980.

Take notice that Noah Corp. (Applicant) filed on October 16, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for the proposed Mississenewa Dam Project No. 3579 to be located at the U.S. Army Corps of Engineers' Mississinewa Dam and Lake, a flood control project, on the Mississinewa River near Peoria and Peru, in Miami County, Indiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James B. Price, Ph.D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3579 would consist of: (1) a proposed penstock extending from the outlet conduit; (2) a proposed powerhouse located on the west bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the project would be 7 MW, and the annual energy output would be 20 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Public Service Company of Indiana.

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, along with obtaining agreements with Federal,

State, and local agencies is estimated to be $100,000.

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—This application was filed as a competing application to Continental Hydro Corp. Project No. 3365 on Mississinewa Dam Project in Peru and Peoria, Indiana under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 January 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3579. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36436 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2752]

Northern Lights, Inc.; Notice Granting Interventions

November 17, 1980.

On November 30, 1978, Northern Lights, Inc., filed an application for a major license for the proposed Kootenai River Hydroelectric Project No. 2752. On May 9, 1980, notice of the availability of staff's draft environmental impact statement was given. An opportunity to file a protest or a petition to intervene was also provided by the notice. Petitions to intervene have been filed by: (1) The Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana (Confederated Tribes); (2) the Kootenai Tribe of Idaho (Kootenai Tribe); (3) the League of Women Voters of Montana; (4) the Montana Wildlife Federation and the National Wildlife Federation; and (5) the Lower Kootenai Band of Canada and Lucy Caye.

The Confederated Tribes' petition to intervene was filed on March 14, 1980. The Tribes stated that the construction of the proposed project would directly affect the rights and interests of the Kootenai and other Indians in the site. The Confederated Tribes state that they are opposed to the project. Their opposition is based on their belief that the project as proposed would destroy a site which is of great religious significance to the Indians. While the petition to intervene was filed after notice of the application had been given, it was filed shortly before notice was published of staff's draft EIS. The Confederated Tribes state that they did not have an opportunity to review the application until several months subsequent to the initial June 25, 1979, deadline for intervention.

The Kootenai Tribe supports the Confederated Tribes in their assertion that the entire area of the proposed project "is a vision quest site of deep religious significance to the Kootenai people." The Kootenai Tribes oppose the licensing of the project on the ground that it would desecrate the sanctity of the Kootenai River and surrounding area.

The League of Women Voters of Montana state that they are interested in addressing energy development in alternatives to the proposed project. The League also expressed an interest in other matters.

The Montana Wildlife Federation and the National Wildlife Federation (Federation) jointly petitioned to intervene and seek to maintain the Kootenai River in its free-flowing condition.

Northern Lights filed separate pleadings opposing the intervention of the Confederated Tribes and the Kootenai Tribe. The applicant states that the area where the project would be located has considerable development already in place. The applicant also states that the proposed project should in no way interfere with the rights and interests of the Kootenai and other Indians at this site. The applicant also states that the interventions should be denied because they were filed late, particularly since the Tribes were aware of the proposed project as early as May 16, 1978.

No opposition to the petitions to intervene filed by the League and the Federation was received.

Subsequent to Northern Lights' answer to the petitions to intervene filed by the Confederated Tribes and the Kootenai Tribe, the Lower Kootenai Band of Canada and Lucy Caye (Lower Kootenai Band) petitioned to intervene. The Lower Kootenai Band assert that the proposed project would have adverse environmental impacts in Canada and would affect their subsistence rights, aboriginal fishing, hunting and gathering rights, religious practices, and farming efforts. No opposition to the Lower Kootenai Band's petition was filed.

In addition, the Confederated Tribes and the Kootenai Tribe amended their petitions to intervene. The Confederated Tribes state that after reviewing Staff's draft environmental impact statement, they are now opposed to the project on environmental grounds, its need, and economic viability. The Kootenai Tribe also expanded its opposition to the project. The Kootenai Tribe now questions the need for the power and the project's economic feasibility. No opposition to the amended petitions was received.

Participation by the above-named petitioners may be in the public interest.

Pursuant to § 375.302, of the Commission's regulations, 45 FR 21216 (1980), amending 18 CFR 3.5(a) (1979), the above-named petitioners are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)–825(r). Participation of the Intervenors shall be limited to matters affecting rights and interests specifically set forth in their petition to intervene. The admission of the Intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36437 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3479]

Oroville-Wyandotte Irrigation District; Application for Preliminary Permit

November 17, 1980.

Take notice that Oroville-Wyandotte Irrigation District (Applicant) filed on September 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3479 to be known as Rock Creek #2 Power Project located on the North Valley and Rock Creeks in Plumas County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton Emerson, General Manager—Chief Engineer, Oroville-Wyandotte Irrigation District, P.O. Box 229, Oroville, California 95965. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (a) A 700-foot long, 135-foot high earth and rockfill dam across the North Valley Creek, approximately 10,000 feet upstream of the North Valley and Rock Creeks confluence; (b) a reservoir with gross storage capacity of 6,000 acre-feet at elevation 4,165 feet (m.s.l.); (c) a 15-foot high concrete diversion dam across the Rock Creek, approximately 750 feet downstream of the North Valley and Rock Creeks confluence; (d) a 13,000-foot long penstock; (e) a powerhouse containing a single generating unit with a rated capacity of 12 MW; and (f) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 65 million kWh.

Purpose of Project—Project energy would be sold to a public or private utility in the northern California area.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. Applicant has indicated that: (a) the existing unimproved road to the proposed North Valley Creek Reservoir site would be used to facilitate geological investigations; and (b) boring holes would be backfilled and the ground surface reconditioned to the extent possible. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $100,000.

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 January 5, 1981, 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 March 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). 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 January 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3479. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory

Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36438 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-8-000]

Pacific Power & Light Co.; Application

November 17, 1980.

Take notice that on November 5, 1980, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to engage in negotiations to issue up to $100 million of First Mortgage Bonds and exempting the issuance thereof from the competitive bidding requirements of § 34.1a of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36439 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1844]

Walter F. Torrance, Jr.; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 5, 1980, Walter F. Torrance, Jr., pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions.

Senior Vice President, Connecticut Light and Power Co., Public Utility.

Senior Vice President, Hartford Electric Light Company, Public Utility.

Senior Vice President, Western Massachusetts Electric Company, Public Utility.

Senior Vice President, Holyoke Water Power Company, Public Utility.

Senior Vice President, Holyoke Power and Electric Company, Public Utility.

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 or 1.10). All such petitions or protests should be filed on or before December 1, 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. 80-36432 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-37-000]

Trunkline Gas Co.; Application

November 17, 1980.

Take notice that on October 28, 1980, Trunkline Gas Company, (Applicant) P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-37-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an eight-year transportation agreement dated October 15, 1980, Applicant proposes to transport on a firm basis up to 5,000 Mcf of natural gas per day purchased by Panhandle in East Cameron Block 104, offshore Louisiana, from Pan Eastern Exploration Company to an existing point of redelivery in Douglas County, Illinois.

Panhandle, it is stated, would pay Applicant $44,950 per month for the transportation service. This rate, it is asserted, would be increased or decreased by 29.55 cents per Mcf of gas above or below the contracted quantity of 5,000 Mcf per day. Applicant asserts it would retain 5 percent of the subject gas for fuel usage and losses.

Applicant asserts it would utilize a portion of its capacity in the offshore lateral connecting East Cameron Block 104 to the pipeline system owned by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) at East Cameron Block 97 and has arranged with Tennessee to transport up to 10,000 Mcf per day from East Cameron Block 97 to Applicant's onshore facilities near Kinder, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36440 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-36-000]

United Gas Pipe Line Co.; Application

November 17, 1980.

Take notice that on October 28, 1980, United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-36-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 115 miles of 30-inch diameter pipeline and related facilities which would commence at its Needville Compressor Station in Forth Bent County, Texas, extend in a northerly direction through Waller, Harris, Polk and Montgomery Counties, Texas, ending at Applicant's Goodrich Compressor Station in San Jacinto County, Texas.

The estimated cost of $81,088,240 would be financed by Applicant's general corporate funds and existing lines of credit with commercial lending institutions, it is stated.

It is asserted the proposed pipeline would enable Applicant to recover needed lost capacity due to the U.S. Department of Transportation's requirement to reduce the maximum allowable operation of pressure on a portion of Applicant's West Leg pipeline which extends from Refugio County, Texas, to Sterlington, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds tht a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36441 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL 1676-2]

Applicability Determination for New Source Performance Standards; Vickers Petroleum Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability.

SUMMARY: Applicability of New Source Performance Standards (NSPS) under the Clean Air Act has been determined as indicated below.

Vickers Petroleum Corporation

Vickers Petroleum proposes to construct, at their Ardmore, Oklahoma, refinery, two new floating roof storage tanks. The proposed tanks No. 131 and 132 will store 125,000 barrels and 80,000 barrels of gasoline respectively. New Source Performance Standards (40 CFR Part 60, Subpart Ka) have been promulgated to regulate the emission of volatile organic compounds (VOC) into the atmosphere from petroleum storage vessels. Under these regulations petroleum storage vessels with a capacity of 151,412 liters (40,000 gallons) or greater storing VOC, except fuel oils numbers 2–6, must meet the control requirements. Since these tanks will store VOC other than number 2–6 fuel oil and have capacities exceeding 151,412 liters, they are subject to the requirements of 40 CFR Part 60 Subpart Ka.

Houston Industries, Inc./ARCO Petroleum Products Company, Houston Ship Channel Cogeneration Project

Houston Industries and ARCO Petroleum Products, in a cooperative effort, propose to develop a major cogeneration project to generate power and steam at a single site located on the Houston Ship Channel using solid alternate fuel(s) as defined in the Power Plant and Industrial Fuel Use Act of 1978. High pressure steam will be expanded to generate approximately 170 megawattas of electrical capacity for the Houston Lighting and Power Company grid. The expanded low pressure process steam, approximately 3.5 million pounds per hour, will be sold to industrial consumers. The project will make use of three 3,000 million B.T.U. per hour fossil fuel-fired steam generators. The primary fuel will be petroleum coke combined with heavy fuel oil as necessary to sustain combustion of the coke. New Source Performance Standards (40 CFR Part 60, Subpart Da) have been promulgated to regulate the emission of particulate matter (PM), sulfur dioxide (SO_2), and nitrogen oxides (NO_x) into the atmosphere from electric utility steam generating units. Under these regulations, electric utility steam generating units capable of combusting more than 73 megawatts (250 million BTU/hr) heat input of fossil fuel which commenced construction or modification after September 18, 1978, must meet the requirements of 40 CFR Part 60, Subpart Da. Since this project will have electric utility steam generators with a heat input exceeding 73 megawatts, they must meet the requirements of 40 CFR Part 60, Subpart Da.

County of Saline

Saline County has installed a new asphalt concrete plant at Benton, Arkansas. The plant will produce approximately 48,000 tons per year of asphaltic paving materials. New Source Performance Standards (40 CFR Part 60, Subpart I) have been promulgated to regulate the emission of particulate matter into the atmosphere from Asphalt Concrete plants constructed or modified after June 11, 1973. Such plants must meet the requirements of this subpart. Since this plant was put into operation after this date it is subject to the requirements of 40 CFR Part 60, Subpart I.

Texas Refining Company

Texas Refining Company proposes to construct a petroleum topping unit at Midland, Texas. The facility will consist of a crude oil heater unit and four 420,000 gallon storage tanks. New Source Performance Standards (40 CFR Part 60, Subpart Ka), have been promulgated to regulate the emissions of volatile organic compounds (VOC) into the atmosphere from petroleum storage vessels. Under these regulations petroleum storage vessels with a capacity of 151,412 liters (40,000 gallons) or greater storing VOC, except fuel oils number 2–6, must meet the requirements of 40 CFR Part 60, Subpart Ka. Since these tanks will store VOC other than number 2–6 fuel oil and have capacities exceeding 151,512 liters, they are subject

to the requirements of 40 CFR Part 60, Subpart Ka.

Cities Service Company

Cities Service Company proposes to construct a hydrocarbon fractionation facility near Mont Belvieu, Texas. The facility will consist of two 150 million B.T.U. per hour heat input process heaters, eight 1,000 horsepower gas turbines, eight 105,000 gallon pressurized storage vessels, and an emergency plant flare. New Source Performance Standards (40 CFR Part 60, Subpart GG), have been promulgated to regulate the emission of nitrogen oxides (NO_x) and sulfur dioxide (SO_2) into the atmosphere from stationary gas turbines. Under these regulations stationary gas turbines constructed after September 10, 1979, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (which is approximately equal to 1,000 hp output), based on the lower heating value of the fuel fired, must meet the requirements of this subpart. Since the eight turbines are rated at 1,000 hp each they are subject to the requirements of 40 CFR Part 60, Subpart GG.

DATES: Under Section 307(b)(1) of the Clean Air Act, judicial review of this 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 today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the background material and determination are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

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

FOR FURTHER INFORMATION CONTACT: Carl Edlund, Chief, Air Enforcement Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2755.

Dated: October 29, 1980.

Frances E. Phillips,

Deputy Regional Administrator.

[FR Doc. 80-36333 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-50507; PH-FRL 1677-8]

American Cyanamide Co. and Pennwalt Corp.; Renewal of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–329, 401 M St., SW., Washington, D.C. 20460, (202–426–9490).

241–EUP–93. American Cyanamide Co., P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of remaining quantity of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-[4-(trifluoromethyl) phenyl]-1-(2,[4-(trifluoromethyl) phenyl] ethenyl)-2-propenylidene hydrazone on pasture and noncropland to evaluate control of imported fire ants. A total of 110,000 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. This experimental use permit is effective from October 15, 1980 to November 15, 1980.

4581–EUP–28. Pennwalt Corp., 900 First Ave., King of Prussia, PA 19406. This experimental use permit allows the use of 1,878 pounds of the insecticide mixture *0,0*-diethyl-*0*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosporothioate and aromatic petroleum solvent to evaluate control of a variety of insects in residential, industrial food processing, and business sites, and on ornamental trees, shrubs, and turf; this use was authorized in a previous experiment use permit. This program is authorized in 50 States and the District of Columbia. The experimental use permit is effective from October 14, 1980 to October 14, 1982.

Interested persons wishing to review the experimental use permits are referred to the product manager. It is suggested that persons call before visiting the EPA Headquarters office so that the appropriate file may be made available for inspection purposes. These files will be available for public inspection in the office of the product manager from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36454 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[PP 9G2271/T275; PH-FRL 1678-6]

American Cyanamid Co.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been extended for use of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-(4-(trifluoromethyl)phenyl)-1-(2-(4-trifluoromethyl)phenyl)-ethyl)-2-propenylidene)hydrazone in or on the raw agricultural commodity forage grass at 0.05 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–329, 401 M St. SW., Washington, D.C. 20460 (202–426–9490).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of December 4, 1979 (44 FR 69726) that a temporary tolerance had been established for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-(4-(trifluoromethyl)phenyl)-1-(2-(4-trifluoromethyl)phenyl) ethenyl)-2-propenylidene)hydrazone in or on the raw agricultural commodity forage grass at 0.05 part per million (ppm).

This temporary tolerance will permit the grazing of the agricultural commodity when treated in accordance with the experimental use permit 241–EUP–93, that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material have been evaluated and it has been determined that the temporary tolerance will protect the public health. The temporary tolerance has been extended under the following provisions.

1. The total amount of the pesticide to be used must not exceed the quantity authorized in the experimental use permit.

2. American Cyanamid Co., will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production,

distribution, and performance and on request make the records available for any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires November 15, 1980. Residues not in excess of 0.05 ppm in or on forage grass after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice should be directed to the product manager.

(Sec. 408(j) 68 Stat. 561 (21 U.S.C. 136(j))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36460 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[ER-FRL-1679-1]

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 November 10, 1980 to November 14, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from November 21, 1980 and will end on January 5, 1981. The 30-day review period for final EIS's as calculated from November 21, 1980 will end on December 22, 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.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of November 10, 1980 to November 14, 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 extensions 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, D.C. 20460, (202) 245-3006.

Dated: November 18, 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.

Draft

Lake Erie Natural Gas Resource Development, several counties in New York, Pennsylvania, and Ohio, Nov. 12: Proposed is the issuance of permits for natural gas resource development in Lake Erie offshore of New York, Pennsylvania, and Ohio. This statement is a programmatic EIS which examines the regional effects of gas development. The alternatives consider various supplies of natural gas, the extension of natural gas supplies, conservation, and modification of the reference program. The cooperating agency is the Environmental Protection Agency which will also issue permits in conjunction with this project and this EIS (Buffalo District). (EIS Order No. 800863.)

Extension: The review period for the above EIS has been extended until January 12, 1981 (No. 800863).

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

Extension: Spiny Lobster Fishery Mgmt. Plan, Pacific, published FR November 17, 1980—review period extended from December 31, 1980 to January 7, 1981.

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600.

Final

Management of Commercially Generated Radioactive Waste, Programmatic, Nov. 14: This is a generic statement concerning the management of commercially generated radioactive waste. The action involves the selection of an appropriate programmatic strategy leading to the permanent isolation of commercial radioactive wastes in a fashion that provides reasonable assurance of safe, permanent isolation of this material (DOE/EIS-0046F). Comments made by: DOC, HEW, DOI, EPA, FERC, NRC, State and local agencies, groups, individuals and businesses. (EIS Order No. 800867.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Draft

Publication Rotogravure Printing, Standards, Regulatory, Nov. 10: Proposed are performance standards to limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed publication rotogravure printing presses. The source of the VOC emissions are the solvent components in the inks, extenders, and varnishes used at the printing presses, as well as solvent added for printing and cleaning. The alternatives call for an overall reduction of VOC emissions at 75, 80 and 85 percent levels. All three regulatory control levels can be achieved with the installation of add-on control equipment (EPA-450/3-80-031A). (EIS Order No. 800860.)

Contact: Mr. Kenneth Bigos, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, (415) 556-8030.

Draft

Reno-Sparks WWT Facilities Expansion, Washoe and Sparks Counties, Nev., Nov. 12: Proposed is the expansion of the Reno-Sparks joint water pollutionn control plant in Washoe and Sparks Counties, Nevada. Expansion would increase plant capacity from 30 MGD to 40 MGD. The alternatives include six advanced wastewater treatment options with continuation of discharge to the Truckee River, two secondary treatment alternatives involving land discharge at Dodge Flat; and one alternative involving discharge to the Truckee Canal (EPA 9-CA-C-32-0114). (EIS Order No. 800861.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566–1416.

Final

Frankford Arsenal Disposal, Philadelphia, Philadelphia County, Pa., Nov. 10: Proposed is the disposal of surplus Federal real property at the Frankfort Arsenal in the city of and county of Philadelphia, Pennsylvania. Several uses for the property are being considered which include: (1) conveyance to a Federal agency, (2) public sale for unrestricted use, (3) use by the State as a waterfront park and marina, and (4) others. Comments made by: DOI, DOT, EPA, State agencies, businesses. (EIS Order No. 800858).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Final

Countrywood South Subdivision, Memphis, Shelby County, Tenn., Nov. 12: The proposed action is the issuance of mortgage insurance for the Countrywood South subdivision located in Shelby County, Tennessee. Countrywood South is a residential development on an approximate 1,153 acre tract of land located northeast of Memphis. The Development plan includes approxmately 2,511 single family lots, 85 acres of open space which includes a county school and park, and a greenbelt system which will allow unrestricted access to the park and school from various sections of the development. Also included are sites for multi-family and commercial development (HUD–R04–E15–79–03F). Comments made by: HEW, AHP, DOC, EPA, DOI, GSA, USDA, TVA, State and local agencies. (EIS Order No. 800864.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Final

Allen-Warner Valley Energy System, Washington and Kane Counties, Utah; Clark County, Nev., Nov. 14: Proposed is the utilization of public rights-of-way for the development of the Allen-Warner Valley energy system in Kane and Washington Counties, Utah and Clark County, Nevada. The system would involve a 500 MW powerplant in Warner Valley, Utah and 2,000 MW plant in Dry Lake, Nevada. The preferred coal source is the Alton coal lease area, from which approximately 11 million tons of coal would be mined annually and transported to the powerplants through two coal slurry pipelines. An electrical transmission system and supporting communication system would deliver power to market areas (FES–80–49). Comments made by: AHP, DOT, COE, DOI, EPA, USAF, USDA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800866).

National Park Service

Draft

Santa Monica Mountains National Recreation Area, Los Angeles and Ventura Counties, Nov. 14: Proposed is a general management plan for the Santa Monica Mountains National Recreation Area in Los Angeles and Ventura Counties, California. The plan addresses many alternatives for each of the following areas: (1) Land classification indicating management emphasis; (2) land acquisition; (3) management of resources in conjunction with agencies and landowners; (4) management of natural, scenic and cultural resources; (5) a related series of possible actions in conjunction with recreational activities and sites, and management of facilities, and (6) future planning. (EIS Order No. 800865.)

Extension: The review period for the above EIS has been extended until February 28, 1981 (No. 800865).

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

Draft

US 7, S. Burlington City Line to I–189, Chittenden County, Vt., Nov. 12: Proposed is the construction of US 7/Shelburne Road from the Shelburne town/South Burlington city line to I–189 in the city of South Burlington, Chittenden County, Vermont. The highway will be four lanes with limited access and partial control if built on relocation. If constructed on existing location the facility would have seven lanes and uncontrolled access. The alternatives considered are: (1) No action, (2) alternate modes of transportation, (3) rebuild on existing location, and (4) build in new location. The cooperating agency is the State of Vermont (FHWA–VT–EIS–80–02–D). (EIS Order No. 800862.)

Extension: The review period for the above EIS has been extended until January 14, 1981 (No. 800862).

Final

I–270, I–55/I–70 to I–270/I–870, Madison County, Ill., Nov. 10: Proposed is the extension of I–270 from I–55/I–70 west of Collinsville to I–270/I–870 near Edwardville in Madison County, Illinois. The facility would extend for 5.5 miles on a new alignment and would complete the I–270 loop around the city of St. Louis. The project also includes reconstruction of the existing interchange of I–270/I–870 and IL–157 and the improvement of existing I–270/I–870 from four lanes to six lanes between IL–111 and IL–157. The alternatives consider: (1) Location and design, (2) improvement of existing fcilities, and (3) no action. The cooperating agency is the State of Illinois (FHWA–IL–EIS–79–03–F). Comments made by: USDA, DOI, DOT, EPA, State and local agencies, businesses. (EIS Order No. 800859.)

Report

US 7, VT–125 to Middlebury Town Line (Report), Addision County, Vt., Nov. 14: This report provides supplemental information to draft EIS, No. 800703, filed 9–17–80, concerning US 7 in Addison County, Vermont. The report more fully explains the purpose of the project and presents additional information regarding anticipated traffic reductions in Middlebury Village resulting from a bypass (FHWA–VT–EIS–80–01–D). (EIS Order No. 800869.)

Extension: US 7, Happy Valley Rd. to Exchange St., VT, published FR September 26, 1980—review extended from November 14, 1980 to January 14, 1981. Please note that the above noticed Report (No. 800869) should be reviewed in conjunction with this EIS (No. 800703).

Urban Mass Transportation Administration

Final

City of Miami Downtown People Mover, Dade County, Fla., Nov. 14: Proposed is the construction of the city of Miami downtown people mover in Dade County, Florida. The people mover is an automated transit system that would operate on a double guideway approximately 1.9 miles long in a fully elevated loop configuration around the central business district. The DPM and its complementary surface transit elements (buses and open air tram) would distribute riders from the rapid transit line to the major activity centers in downtown Miami in addition to providing internal downtown distribution. Comments made by: DOC, HHS, HUD, DOI, DOT, EPA, GSA, State and local agencies, individuals and businesses. (EIS Order No. 800868.)

[FR Doc. 80–36469 Filed 11–20–80; 8:45 am]

BILLING CODE 6560–37–M

[TSH–FRL 1678–5; OPTS–51170]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by December 20, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793),

Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, D.C. 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Rick Green, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St. SW., Washington, D.C. 20460 (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 20, 1980 submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51170]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)

Dated: November 17, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

Physical/Chemical Properties

Viscosity Z6 HY.
Non-volatile 80 ± 1.
Acid number 10 maximum.
Weight/gallon 9.10 pounds.
Color 6 maximum.
Solvent, butyl acetate 100 percent.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1–10
Processing	Inhalation	10	4	251		1–10
Use	Inhalation	3	4	251		1–10
Disposal	Inhalation	2	2	251		1–10

PMN 80–287

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 19, 1981.

Manufacturer's Identity. Claimed-confidential business information.

Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West North central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Tall oil fatty acid, isophthalic acid, terephthalic acid, pentaerythritol, benzoic acid, and trimethylol propane.

Use. Air dry and baking enamels.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
First year	900,000	1,500,000
Second year	1,000,000	2,000,000
Third year	1,000,000	2,000,000

Environmental Release/Disposal. The manufacturer states that: Manufacture of the substance is carried out in a closed system; less than 30 kg of the substance may be released to the environment per year, 1 hour a day, 251 days a year, the only release point is water of esterification which is disposed through a sanitary sewer from a settling basin.

PMN 80-288

The following summary is taken from data submitted by the manufacturer in the PMN.

Closed of Review Period. January 19, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Soybean oil, pentaerythritol, isophthalic acid, benzoic acid, terephthalic acid.

Use. Air dry enamel.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
First year	9,000,000	1,500,000
Second year	1,000,000	2,000,000
Thrid year	1,000,000	2,000,000

Physical/Chemical Properties.

Non-volatile—80±1.

Viscosity—Z6 Hy.

Acid number—13 Max.

Color—6 Max.

Weight/gallon—8.80 lb.

Reduce viscosity at 60 N.V. in butyl acetate—T.

Solvent—Butyl acetate.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1-10
Processing	Inhalation	10	4	251		1-10
Use	Inhalation	3	4	251		1-10
Disposal	Inhalation	2	2	251		1-10

Environmental Release/Disposal. The manufacturer states that: Manufacture of the substance is carried out in a closed system; less than 30 kg of the substance may be released to the environment per year, 1 hour a day, 251 days a year, the only release point is water of esterification which is disposed through a sanitary sewer from a settling basin.

[FR Doc. 80-36459 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-180519; PH-FRL 1678-8]

Maryland, Oregon, and Pennsylvania; Issuance of Specific Exemptions To Use Mesurol on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Maryland, Oregon, and Pennsylvania Departments of Agriculture (hereafter referred to as "Maryland", "Pennsylvania", "Oregon", or the "Applicants") to use Mesurol to control depredating birds on 300 acres of grapes in Maryland, 800 acres in Oregon, and 1,500 acres in Pennsylvania. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: Maryland's exemption expires on October 30, 1980; Oregon's and Pennsylvania's expire on November 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, birds can seriously reduce the crop of marketable grapes. The amount of injury varies from year to year, reflecting bird populations and availability of alternative food sources. Grapes are generally harvested after other berry crops and thus can become a major food source for birds. Grapes are subject to feeding at all times after the fruit has begun to ripen. Bird species observed in grape fields include robins, finches, starlings, sparrows, mourning doves, orioles, cedar waxwings, and blackbirds.

There are currently no pesticides registered for bird control in grapes. There are two types of alternative control available: (a) scare devices, and (b) exclusion devices. According to the Applicants, scare devices do not prevent, but only reduce, feeding injury; some birds quickly adapt to these devices. The Applicants claim that exclusion devices are prohibitively expensive. Mesurol is currently registered as a bird repellent on cherries.

The Applicants propose to apply from 2.67 to 5.33 pounds of Mesurol, which contains the active ingredient (a.i.) 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate, per acre with up to three applications. The Applicants anticipate that grape growers in Maryland may lose up to $48,000, those

in Oregon up to $100,000, and those in Pennsylvania from $150 to $300 per ton on wine grapes, and $250 to $350 per ton on table grapes, if Mesurol is not available.

EPA has determined that residues of the a.i. and its cholinesterase-inhibiting metabolites would not exceed 10 parts per million (ppm) in or on grapes, 20 PPM in or on raisins, and 50 ppm in or on grape pomace and raisin waste, from the proposed use. These residue levels have been judged adequate by EPA to protect the public health. EPA has also determined that the proposed use should not present an undue hazard to the environment.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, Oregon and Pennsylvania have been granted specific exemptions to use the pesticide noted above until November 30, 1980, and Maryland until October 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 Mesurol 75% WP insecticide-bird repellent, EPA Reg. No. 3125-288, may be used.

2. Maryland may apply Mesurol by ground equipment at a rate of 2.67 pounds (2.0 pounds a.i.) per acre; Oregon may apply Mesurol at a rate of 2.67 to 5.33 pounds of product (2.0 to 4.0 pounds a.i.) per acre using air or ground equipment; and Pennsylvania may apply Mesurol at a rate of 2.67 to 5.33 pounds of product (2.0 to 4.0 a.i.) per acre using ground equipment. No more that three applications may be made per season.

3. Application of Mesurol is restricted to those grape fields where damage from bird depredation will cause significant economic losses, as determined by Cooperative Extension or authorized State personnel.

4. Application is to begin at the first sign of major bird damage. A one-day pre-harvest interval is imposed.

5. In Maryland, a total of 1,200 pounds a.i. are authorized to treat up to 300 acres. In Oregon, a total of 9,600 pounds a.i. are authorized to treat up to 800 acres. In Pennsylvania, a total of 18,000 pounds a.i. are authorized to treat up to 1,500 acres.

6. Mesurol is toxic to fish and other aquatic organisms. Precautions must be taken to avoid or minimize spray drift to aquatic areas.

7. Mesurol is highly toxic to bees exposed to direct treatment or residues on crops or blooming weeds. It may not be applied or allowed to drift to crops or weeds when bees are actively visiting the area.

8. All applicable directions, restrictions, and precautions on the registered label must be followed.

9. Residues of the a.i. and its cholinesterase-inhibiting metabolites not exceeding the following levels may enter into interstate commerce: grapes—10 ppm; raisins—20 ppm; raisin waste—50 ppm; grape pomace—50 ppm. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified of these actions.

10. Each of the Applicants is responsible for assuring that all of the provisions of that State's specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 5, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36481 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30000/35B; PH-FRL 1678-7]

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Carbon Tetrachloride: Extension of Period for Submission of Rebuttal Evidence and Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the period for submittal of rebuttal evidence and other comments in regard to the rebuttable presumption against registration (RPAR) of pesticide products containing carbon tetrachloride (CCl_4).

DATE: The comment period now closes on January 23, 1981.

ADDRESS MATERIAL TO: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Environmental Protection Agency, Rm. 711B, Crystal Mall #2, 401 M St., SW., Washington, D.C. 20460, (703-557-7460).

SUPPLEMENTARY INFORMATION: On September 30, 1980, EPA issued an RPAR against carbon tetrachloride. This notice was published in the **Federal Register** of October 15, 1980 (45 FR 68551). The regulations governing RPAR's provide that the applicant or registrant of these pesticide products shall have forty-five days from the date this notice is sent to submit evidence in rebuttal of the presumption. If good cause is shown, however, an additional sixty days may be granted in which to submit evidence (40 CFR 162.11(a)(1)(i)).

The deadline for submitting rebuttal evidence in the RPAR notice was November 24, 1980. A request for an additional sixty days in which to submit evidence to EPA has been received from Hope Consulting, Inc. This company specified a need for additional time to obtain data necessary to respond to the notice of presumption.

The agency concludes that additional time would be beneficial to ensure the submission of complete and accurate responses to this notice of presumption. Therefore, all registrants, applicants for registration, and other interested persons shall have until January 23, 1981, to submit rebuttal evidence and other comments or information. These submissions should be sent to the Document Control Officer at the address given above. All comments should bear the identifying notation "OPP-30000/35." Comments received on or before January 23, 1981, will be considered before the agency decides whether a notice shall be issued under 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(d)(B)(1). Comments received after January 23, 1981, shall be considered only to the extent feasible, consistent with the limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed will be available for public inspection in the office of the Document Control Officer at the above address from 8:00 a.m. to 4:00 p.m. daily except legal holidays.

Dated: November 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36445 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-113]

Dated: November 18, 1980.

First Federal Savings and Loan Association of Shelby, Shelby, N.C., Final Action Approval of Conversion Application

Notice is hereby given that on October 27, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80-668, approved the

application of First Federal Savings, and Loan Association of Shelby, Shelby, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36417 Filed 11-20-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-112]

Home Federal Savings and Loan Association of Meridian, Meridian, Miss.; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

Dated: November 10, 1980.

Notice is hereby given that on October 1, 1980, the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), through the exercise of delegated authority, approved an amendment to the application of Home Federal Savings and Loan Association of Meridian, Meridian, Mississippi ("Association"), providing that the aggregate price of the stock to be sold in the conversion of the Association shall be not less than $3,060,000 nor more than $4,140,000. The conversion application of the Association was approved on June 19, 1980, by Board Resolution 80-390. Copies of the application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36418 Filed 11-20-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W. Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by December 1, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10247-3.

Filing Party: Neal M. Mayer, Esquire, Coles & Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10247-3, between Farrell Lines Incorporated, Columbus Line, Associated Container Transportation (Australia) Ltd., The Australian National Line and Atlanttrafik Express Service, amends the Australian Meat Loading Agreement. The purpose of Agreement No. 10247-3 is as follows: (1) amend paragraph 1 by changing "Australian Meat Board" to "Australian Meat and Live-Stock Corporation"; (2) amend paragraph 2 by deleting the amount of the premium for each ton of covered cargo loaded and revise the date; (3) remove outdated language by deleting paragraph 3; (4) amend paragraph 5 by removing irrelevant language; and, (5) amend paragraph 8 by extending the term of the agreement to December 31, 1981.

By Order of the Federal Maritime Commission.

Dated: November 18, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36421 Filed 11-20-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for 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 December 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. Manufacturers Hanover Corporation, New York, New York (commerical finance; North Carolina, South Carolina, Virginia, and West Virginia): to engage through its subsidiary Manufacturers Hanover Commerical Corporation (Delaware) in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commerical finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover

Commercial Corporation (Delaware) to be located in Charlotte, North Carolina and servicing the states of North Carolina, South Carolina, Virginia and West Virginia.

2. Manufacturers Hanover Corporation, New York, New York (commercial finance; Ohio, Indiana, Michigan, New York and Pennsylvania): to engage through its subsidiary Manufacturers Hanover Commerical Corporation (Delaware) in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover Commercial Corporation (Delaware) to be located in Independence, Ohio, and servicing the states of Indiana, Michigan, New York, Ohio and Pennsylvania.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36383 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 12, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; Virginia): to engage, through its subsidiary, The Kissell Company, in making or acquiring and servicing loans and other extensions of credit for its own account and the account of others. These activities would be conducted from an office in the metropolitan area of Virginia Beach, Virginia, serving the metropolitan area of Virginia Beach, Virginia.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. U.S. Bancorp, Portland, Oregon (financing and insurance activities; Washington): to engage, through its subsidiary U.S. Creditcorp Industrial Loan Company ("CLIC"), in making or acquiring and servicing loans and other extensions of credit, secured and unsecured, for its own account or for the account of others including consumer and commercial loans; installment sales contracts and other forms of receivables making investments as permitted by State law; and acting as agent for the sale of life and disability insurance, and property and casualty insurance directly related to extensions of credit by CLIC. These activities would be conducted from an office in Bellevue, Washington, serving the Seattle SMSA.

2. Wells Fargo & Company, San Francisco, California (finance, leasing, and insurance activities; Eastern United States): proposes to engage through its subsidiary, Wells Fargo Credit Corporation ("WFCC") in making or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commercial loans secured by a borrower's or a guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property in accordance with the Board's Regulation Y; acting as agent for credit life or accident and health insurance related to its extensions of credit; and in acting as agent for credit property and casualty insurance and associated liability insurance related to WFCC's extensions of credit, to the extent permissible under applicable state insurance laws or regulations. These activities would be conducted from offices in Wheaton, Maryland and Tyson's Corner, Virginia serving Maryland, Virginia, North Carolina, the District of Columbia, Delaware, Tennessee, Kentucky and West Virginia.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36384 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Bantex Bancshares, Inc.; Formation of Bank Holding Company

Bantex Bancshares, 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 at least 80 per cent of the voting shares of Greater Houston Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36375 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

G.W.B. Holding Co., N.V., G.W.B. Co., B.V., GWB HOLDING CO.; Formation of Bank Holding Company

G.W.B. Holding Company, N.V., Netherlands Antilles, G.W.B. Company, B.V., Netherlands, and GWB Holding Company, Dover, Delaware, have 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 bank holding companies by acquiring 100 per cent (less director's qualifying shares) of the voting shares of Great Western Bank & Trust, Phoenix, Arizona. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36376 Filed 11.20.80; 8:45 am]

BILLING CODE 6210-01-M

Green Lake Bancorporation, Inc.; Formation of Bank Holding Company

Green Lake Bancorporation, Inc., Spicer, Minnesota, 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 Green Lake State Bank, Spicer, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 12, 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, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36377 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Ida Grove Bancshares, Inc., Formation of Bank Holding Company

Ida Grove Bancshares, Inc., Ida Grove, 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 95 percent or more of the voting shares of Ida County State Bank, Ida Grove, 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 December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36378 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Keystone, Inc.; Formation of Bank Holding Company

Keystone, Inc., Rock Rapids, 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 100 per cent of the voting shares of Ashton Investment Company, Rock Rapids, Iowa, and Midwest Agricultural Credit Corporation, Rock Rapids, Iowa; 80 per cent or more of the voting shares of Sioux County State Bank, Orange City, Iowa; and the indirect acquisition of 80 per cent or more of the voting shares of Ashton State Bank, Ashton, Iowa, and Peoples Bank and Trust Company, Rock Valley, 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)).

Keystone, Inc., Rock Rapids, 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 engage in general insurance agency activities in towns of less than 5,000, through its proposed subsidiaries, State Bank Agency, Ashton, Iowa, and Lester Insurance Agency, Lester, Iowa; the insurance activities would be performed from offices of Applicant in Lester and Ashton, Iowa, and the leasing activities from offices in Rock Rapids, Iowa. The geographic areas to be served for the insurance activities are principally within a five mile radius of Ashton and Rock Rapids. Such activities have been specified by the board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of 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 December 12, 1980.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36379 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Mellon International Co.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as

Mellon International Company, Miami, Florida. Mellon International Company would operate as a subsidiary of Mellon Bank, N.A., Pittsburgh, Pennsylvania. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR section 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36380 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Richmond, Richmond, 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 December 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, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36381 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Southwest Florida Bank, Inc.; Acquisition of Bank

Southwest Florida Bank, Inc., Fort Myers, Florida, 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 up to 100 percent of the voting shares of Bank of Riverview, Riverview, 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 December 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, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36382 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal (NRC)

The following request for clearance of reports intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on November 14, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 9, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of revisions to 10 CFR 40, Domestic Licensing of Source Material, to implement new Appendix A "Criteria Relating to the Operation of Uranium Mills and Deposition of Tailings or Waste Produced by the Extraction or Concentration of Source Material from Ores Possessed Primarily for Their Source Material Content." The additional impact of this requirement on applicants for an NRC license and on current licensees will result in the submittal of information perataining to proposed health and safety procedures at mills, including plans for the control, management, and long-term disposition of mill tailings. The NRC estimates that the initial submission of detailed programs to meet the criteria established in Appendix A will range from 80 to 640 hours for Category A licensees and from 10 to 80 hours for Catrgory B licensees. Criterion 5 of Appendix A will affect only Category A respondents and the burden will range from 25 to 200 hours per year. Criterion 7 will affect all Category A licensees with a burden averaging 50 hours for each Category A licensee and 20 hours for each Category B licensee. Criterion 8 will affect 50 NRC licensees and 50 Agreement State licensees and require an average burden of 33 hours per year for each respondent for the section pertaining to yellowcake stack emission control equipment.The section of Criterion 8 on cessations, corrective actions and restarts will require approximately 25 licensees an average burden of 2 hours per incident. Criterion 8A requires a daily documentation of inspections of tailings or waste retention systems. Recordkeeping for this requirement will affect 50 licensees and burden will average 6 hours per year. Criterion 8A also requires NRC to be immediately notified of any malfunction and NRC estimates that reporting such occurrence will require one hour per occurrence. Criterion 9 will require approximately 40 hours burden for each Category A licensee and 10 hours per Category B licensee.

The NRC requests clearance of revisions to 10 CFR 150, Exemptions and Continued Regulatory Authority in Agreement States Under Section 274, to implement new sections 150.15a, 150.31 and 150.32. Section 150.31 will require Agreement State licensees to comply with the requirements contained in Appendix A of 10 CFR 40 to the maximum extent practicable. The additional impact of this requirement on applicants for an NRC license and on current licensees will result in the submittal of information pertaining to proposed health and safety procedures at mills, including plans for the control, management, and long-term disposition of mill tailings. The burdens as estimated by NRC for complying with these requirements are set out above in the paragraph on 10 CFR 40.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-36483 Filed 11-20-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80M-0442]

Allergan Pharmaceuticals, Inc.; Premarket Approval of Allergan Soflens™ Cleaning and Soaking Solution for Polymacon Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Allergan Soflens™ Cleaning and Soaking Solution of polymacon hydrophilic contact lenses sponsored by Allergan Pharmaceuticals, Inc., Irvine, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent 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: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Allergan Pharmaceuticals, Inc., Irvine, CA, submitted an application for premarket approval of the Allergan Soflens™ Cleaning and Soaking Solution for polymacon hydrophilic contact lenses to FDA on September 11, 1975. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 3, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Soflens™ Cleaning and Soaking Solution states that the solution is designed for daily use to clean, hydrate, and disinfect polymacon contact lenses. Sponsors of any soft (hydrophlic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide to grant or deny the petition and will publish notice of its decision in the **Federal Register** if FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with 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, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be

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

Dated: November 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36005 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

Norwich-Eaton Pharmaceuticals; Furadantin Suspension; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of Furadantin (nitrofurantoin) Suspension for treating canine tracheobronchitis and bacterial infections of the urinary tract of small animals. The sponsor, Norwich-Eaton Pharmaceuticals, requested this action.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815, is the sponsor of NADA 10-914 which provides for use of Furadantin Suspension for treating canine tracheobronchitis and bacterial infections of the urinary tract of small animals. The application was originally approved December 4, 1957 for use of the suspension containing 5 milligrams of nitrofurantoin per milliliter. By letter of January 12, 1978, the sponsor requested withdrawal of approval of the application because the product has never been marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 10-914 and all supplements for Norwich-Eaton Pharmaceuticals' Furadantin Suspension is hereby withdrawn, effective December 1, 1980.

Dated: November 12, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36006 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0366]

*Abbott Laboratories; Premarket Approval of HAVAB-M ™ Diagnostic Kit

AGENCY: Food and Drug Administration

ACTION: Notice

SUMMARY: The Food and Drug Administation (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the HAVAB-M ™ Diagnostic Kit sponsored by Abbott laboratories, north Chicago, IL. After reviewing the recommendation of the Microbiology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Doickets 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: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20912, 301-427-8162

SUPPLEMENTARY INFORMATION: The sponsor, Abbott Laboratories, North Chicago, IL, submitted an application for premarket approval of the HAVAB-M™ Diagnostic Kit (radioimmunoassay for IgM antibody to hepatitis A virus) to FDA on August 27, 1979. The application was reviewed by the Microbiology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended approval of the application. On June 10, 1980 FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and the FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with 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, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated November 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36212 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0451]

Bacterial Vaccines and Toxoids; Blood and Blood Derivatives; Availability of Final Reports of Advisory Review Panels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the final report of the Panel on Review of Bacterial Vaccines and Toxoids and the final report of the Panel on Review of Blood and Blood Derivatives.

ADDRESS: Requests for a copy of the final reports may be sent 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: Steven F. Falter, Bureau of Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability to the public of the final reports of the Panel on Review of Bacterial Vaccines and Toxoids and the Panel on Review of Blood and Blood Derivatives, as submitted to the Commissioner of Food and Drugs in accordance with § 601.25(e) (21 CFR 601.25(e)) of the biologics regulations. FDA has released these two panel reports to the Public Citizen Health Research Group (HRG), a consumer research and advocacy organization. So that other interested persons may have an equal opportunuty for the review of these reports, FDA is announcing their availability to the public.

These final reports are currently under review within the agency, and the release of these reports to the public should not be considered as representing FDA's endorsement or approval of the respective panels' findings and recommendations. FDA's response to each panel report, including any proposed actions or disagreements with, or variances from, specific panel recommendations will be published in the Federal Register at a later date in a "Proposed Implementation of Efficacy Review" for each panel report. FDA requests that comments on the panels' reports be withheld until requested in the respective implementation proposal.

Persons interested in obtaining a copy of the panels' reports may write the Dockets Management Branch, Food and Drug Administration, at the address above. Requests should include the docket number found in brackets in the heading of this document and the title of the report being requested; either "Panel on Review of Bacterial Vaccines and Toxoids; Final Report" or "Panel on Review of Blood and Blood Derivatives; Final Report." Appended to each report is a notification that the document is subject to format and editorial changes prior to publication in the Federal Register. These changes are designed to assure that the document is free of incidental errors and conforms to the stylistic requirements established for documents published in the Federal Register. The reports may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36210 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James A. Adamson, District Director, Kansas City District Office, Kansas City, MO.

DATE: The meeting will be held at 1 p.m., Wednesday, December 3, 1980.

ADDRESS: The meeting will be held at 1009 Cherry St., Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Lorena A. Meyers, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816–374–3817.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Kansas City District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36211 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0289]

Minnesota Mining and Manufacturing Co.; Premarket Approval of Microbial Profile System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Microbial Profile System (MPS) sponsored by Minnesota Mining and Manufacturing Co. (3M), St. Paul, MN. After reviewing the recommendation of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry A. Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, 3M, St. Paul, MN, submitted an application for premarket approval of the Microbial Profile System (MPS) (an antimicrobial susceptibility test system) to FDA on September 14, 1979. The application was reviewed by the Microbiology Device Section of the Immunology and Microbiology Devices Panel, and FDA advisory committee, which recommended approval of the application. On July 15, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of

review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with 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, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–38213 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0456]

Infant Formula Reporting Requirements; Notice To Manufacturers

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) in accordance with the Infant Formula Act of 1980 (Pub. L. 96–359) is establishing the content of and the format by which all reports by manufacturers of infant formulas are to be submitted to FDA. This notice designates the types of information required to be submitted, the time when such information is to be submitted, and the offices in FDA where such reports are to be sent. The purpose of the reporting requirements is to ensure compliance with the 1980 Infant Formula Act.

ADDRESS: Manufacturers of infant formulas are to submit the required reports to Chief, Regulatory Affairs Staff (HFF–204), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Bureau of Foods (HFF–204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3117.

SUPPLEMENTARY INFORMATION: In 1978 a major manufacturer of soy protein-based infant formulas reformulated its soy product line. This reformulation resulted in products containing an inadequate amount of the essential nutrient, chloride. By mid-1979 substantial numbers of cases of hypochloremic metabolic alkalosis in infants, characterized by a failure to thrive, were diagnosed. Most of these cases were associated with prolonged exclusive uses of these brands of infant formulas. Thus, it became apparent that greater control over the formulation and production of infant formulas was necessary. Accordingly, Congress passed and the President signed into law on September 26, 1980, the Infant Formula Act of 1980 (Pub. L. 96–359, 94 Stat. 1190). This amendment to the Federal Food, Drug, and Cosmetic Act (the act) establishes a new section 412 (21 U.S.C. 350a) which specifies more stringent control over infant formula manufacturing and processing. It also provides for certain notification to the FDA from infant formula manufacturers. This notice addresses the reporting requirements of section 412 (b) and (c) of the act and reporting exemptions under section 412(f) for certain formulas.

Section 412(b)(1) of the act requires manufacturers to notify FDA within 90 days following the date of its enactment (December 26, 1980) and on each 90th day thereafter, that each infant formula produced by the manufacturer for commercial or charitable distribution for human consumption provides the nutrients required by section 412(g) of the act. This notification requirement will expire upon the effective date of the quality control and assurance procedural regulations which FDA will be proposing in the **Federal Register** in the near future. Infant formulas falling into this category are deemed to be "existing" formulations if they are identical to those in commercial use on or before December 26, 1980 and are still being manufactured after December 26, 1980.

Section 412(b)(2) of the act requires manufacturers to notify FDA, not later than the 90th day before the first processing of any infant formula for commercial or charitable distribution for human consumption that any "new" infant formula provides the nutrients required by section 412(g) of the act. "New" infant formulas are those newly developed formulations placed in commercial use after December 26, 1980 and which are not reformulations within the meaning of section 412(b)(3).

Section 412(b)(3) of the act requires manufacturers, before the first processing of any infant formula for commercial or charitable distribution for human consumption, when the manufacturer determines that a change in its formulation or a change in its processing may affect whether the formula is adulterated under section 412(a)(1), to notify FDA of such changes and that the new formulation provides the nutrients required by section 412(g) of the act. "Reformulated" infant formulas are those in which a change in processing or a change in formulation occurred with respect to infant formulas in commercial use after December 26, 1980.

Section 412(c) of the act requires manufacturers to promptly notify FDA when they have knowlede, as defined in section 412(c)(2) of the act, that an infant formula which has been processed by the manufacturer and which is in the marketplace may not provide the required nutrients or is otherwise adulterated or misbranded and, if so adulterated or misbranded, presents a health risk.

Section 412(f) of the act provides an exemption from the adulteration provisions of section 412(a) for any infant formula which is represented and labeled for use by an infant who has an inborn error of metabolism or a low birth weight, or who otherwise has an unusual medical or dietary problem. Such unusual medical conditions include, but are not limited to, infants suffering from phenylketonuria or severe kidney diseases. These conditions require formulas specifically tailored to the infants' medical needs. See S. Rept. No. 96–916, 96th Cong., 2d Sess., p. 10 (1980). Such formulas are also exempt from the notification requirements of section 412 (b) and (c)(1)(A) of the act. However, these formulas are not exempt from the other requirements of section 412, or the other applicable sections of the act.

For the purpose of this notice FDA believes that infant formulas, unless limited to a specific population because of a special dietary or medical need, are not exempted from the reporting requirements of section 412. These nonexempt formulas are readily available to the general public, and include those for infants with conditions such as milk or other food allergies, digestive enzyme deficiencies which cause intolerances to food components such as carbohydrates, and malabsorption problems such as those related to the intestinal absorption of some food fats. Thus, FDA expects that

all the required reports covered by this notice will be submitted for these types of infant formula products. FDA will be proposing regulations defining the precise terms and conditions of the exemption for formulas in the near future. In the meantime, questions concerning this exemption should be sent to Chief, Regulatory Affairs Staff, at the address above.

A. The reports described above are to be submitted to FDA in the following format:

Please Type or Print All Entries

1. Enter the name of the product: _____.

2. Check whether the identified infant formula is an "existing formulation" ——, a "new formulation" ——, or a "reformulation" ——.

3. Enter establishment name and address.

Name:_____
Address: _____
(City)_____
(State) _____
(Zip Code)_____

4. If establishment has a parent company, enter parent company name and address. If not applicable, check N/A.

Name:_____
Address: _____
(City)_____
(State) _____
(Zip Code)_____
N/A _____

5. Notification Statement of the Quality of Infant Formula being produced as of December 26, 1980. "I hereby notify FDA that the infant formula identified in 2 above meets the nutritional requirements of section 412 of the Federal Food, Drug, and Cosmetic Act and is not adulterated or misbranded within the meaning of said act."

Signed: _____
Dated:_____

(This notification shall be signed and dated by a responsible official.)

B. The report required by "A" above shall be submitted to Chief, Regulatory Affairs Staff (HFF–204), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, within the following time frames:

1. *"Existing formulations"*—The manufacturer shall notify FDA by letter postmarked on or before December 26, 1980, and on each 90th day thereafter, that each infant formula produced by the manufacturer for commercial or charitable distribution for human consumption provides the nutrients required by section 412(g) of the act. This notification requirement will expire upon the effective date of the quality control and assurance procedures regulations, to be promulgated by FDA.

2. *"New formulations"*—The manufacturer shall notify FDA, not later than the 90th day before the first processing of any new infant formula for commercial or charitable distribution for human consumption, that the new infant formula provides the nutrients required by section 412(g) of the act.

3. *"Reformulations"*—The manufacturer, before the first processing of any infant formula produced for commercial or charitable distribution for human consumption, when the manufacturer determines that a change in its formulation or a change in its processing (as described in section 412(b)(3) of the act) may affect whether the formula is adulterated, shall notify FDA of such changes and that the reformulated formula provides that nutrients required by section 412(g) of the act.

C. 1. The manufacturer also should submit to FDA one label for each infant formula produced for commercial or charitable distribution for human consumption with its initial submission for existing formulations and with each submission for new formulations or reformulations.

2. All labels are to be submitted to Chief, Regulatory Affairs Staff (HFF–204), and in accordance with the due dates established in B. above.

D. The manufacturer shall promptly notify FDA when there is an infant formula in the marketplace which may not provide the nutrients required by section 412(g) of the Federal Food, Drug, and Cosmetic Act or when there is an infant formula otherwise adulterated or misbranded within the meaning of the act and presents a risk to human health. Descriptions of the known or suspected adulteration or misbranding must be provided. This notification shall be made to FDA's Emergency and Epidemiological Operations Branch by telephone at 301–443–4667 during normal business hours (8 a.m. to 4:30 p.m.) or at 202–737–0448 after normal business hours. This telephone notification shall be followed promptly by written confirmation which is to be sent to the Division of Regulatory Guidance (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and to the appropriate FDA district office specified in 21 CFR 5.115.

FDA advises that some of the reporting requirements set forth by this notice may be superseded by the quality control and assurance procedural regulations which will be proposed in the Federal Register in the near future.

The reporting requirements contained in this notice has been determined by the Office of Management and Budget (OMB) to be a certification and that it is not subject to OMB approval under the Federal Reports Act.

Dated: November 17, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-36330 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0387]

Medicornea, Inc.; Premarket Approval of Softflow (Deltafilcon A) Hydrophilic Contact Lens

Correction

In FR Doc. 80–30915 appearing at page 66514 in the issue of Tuesday, October 7, 1980, third column, paragraph beginning "Before", line 7, "section 301(h)" should be corrected to read "section 201(h)".

BILLING CODE 1505-01-M

[Docket No. 80M-0426]

Syntex Ophthalmics, Inc.; Premarket Approval of CSI™ (Crofilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the CSI™ (Crofilcon A) Hydrophilic Contact Lens, sponsored by Syntex Ophthalmics, Inc., Palo Alto, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent 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: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Syntex Ophthalmics, Inc., Palo

Alto, CA, submitted an application for premarket approval of CSI™ (Crofilcon A) Hydrophilic Contact Lens to FDA on June 15, 1979. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On September 19, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of an approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with an approved contact lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with 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, four copies of each petition and supporting data and information, identified with the name of the device and the Dockets Management Branch docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36307 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Statewide Professional Standards Review Council of Virginia; Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on April 30, 1981.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs, in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have three or more PSROs to: (1) help coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors, other practitioners, and medical facilities to assure that medical care provided is necessary, appropriate, and of acceptance quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Virginia under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that must, under law, be represented on the Council's advisory group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Everett F. Bryant, Regional Administrator, Health Care Financing Administration, Post Office Box 7760, Philadelphia, Pennsylvania 19101.

After consideration of all nominations received within 60 days of this notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (215) 596–1351.

Dated: November 7, 1980.

Everett F. Bryant,

Regional Administrator, Health Care Financing Administration.

[FR Doc. 80-36301 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee), National Cancer Institute, December 11–12, 1980, the Holiday Inn Airport, 1489 Jefferson Davis Highway, Arlington, Virginia. This meeting will be open to the public on December 11, from 8:30 a.m. to 12:00 noon, to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 11, from 1:00 p.m. to 5:00 p.m., and on December 12, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. William E. Straile, Executive Secretary, National Cancer Institute, Blair Building, Room 314, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8800) will furnish substantive program information.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBERS 13.393, 13.394, 13.395, Project grants in cancer cause and prevention research, cancer detection research, and cancer treatment research, NATIONAL INSTITUTES OF HEALTH)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular).

Dated: November 17, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-36313 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-08-M

Transplantation Biology and Immunology Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases, December 8, 1980 at the National Institutes of Health, Westwood Building, Conference Room 740, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. Program initiated advisory issues that were not covered at the October 31, 1980 meeting and items presented for concept clearance that require further discussion will be on the agenda.

Attendance by the public will be limited to space available.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharamological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 17, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-36314 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-08-M

Office of Human Development Services

[Program Announcement No. 13636–811]

Aging Program, Research and Development Projects

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Funds for the Research and Development Projects in Aging Program.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted for the Research and Development Projects in Aging Program authorized by Title IV, Part B of the Older Americans Act of 1965, as amended (42 USC Sec. 3001, et. seq.)

DATES: Closing date for receipt of applications is: Janaury 23, 1981.

Scope of This Announcement

This announcement relates only to the discretionary grants program conducted by the Administration on Aging under the Research and Development Projects in Aging Program, Title IV, Part B of the Older Americans Act. The Administration on Aging also administers discretionary grant programs in education and training, long-term care and model projects on aging. The announcement covers funding priorities for the Fiscal Year 1981. For further information, consult the Research and Development Guidelines, Division of Research, Administration on Aging, Room 3280 HHS North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

Program Purpose

The Research and Development Projects in Aging Program is the foundation of AoA knowledge building efforts. The purpose of this program is to award grants which will contribute to the well-being of the elderly by: (1) identifying and studying current

patterns and factors that affect the lives of older persons; and (2) developing, demonstrating, and evaluating approaches and methods for improving the life circumstances of older persons. This program gives particular attention to the needs of the very old and impaired whose problems are aggravated by social isolation, low income, rural residence, and minority status.

Programs Goals and Objectives

The goal of the Research and Development Program authorized in Title IV–B of the Older Americans Act is to build policy and program relevant knowledge in support of three (3) objectives:

1. Understanding the needs and conditions of older persons;
2. Developing or modifying public and private policies to improve the life circumstances of older persons;
3. Developing and implementing comprehensive and coordinated community based service systems for older persons.

Special Considerations

The Fiscal Year 1981 research program will be limited to research projects in the following two categories:

Concept and Option Papers—which analyze existing information in the light of current and future policy and practice, and identify alternative strategies for addressing major social problems. Proposals for a *series* of such papers from one researcher, or from a group of researchers, which show promise of analyzing a particular issue from differing theoretical perspectives, will also be considered for funding, providing that the total budget is not in excess of $75,000.

Small-Scale Data Collection or Data Analysis Products—which may extend an existing research project or further analyze existing data; policy relevant case studies, pilot studies, or other exploratory research designs in pursuit of specific research objectives relevant to the AoA policy issues and concerns.

The amounts indicated as available and the number of awards anticipated should be considered as suggestive, not restrictive, although AoA expects awards generally to reflect these projections.

Proposals are expected to address to the fullest extent possible the major social issues of the Department including: strengthening the place of the aged person in the family; assisting recent immigrants who are aged in their adjustment to American society; and targeting public resources toward the efficient management of social service systems, and the specific needs of sub-populations among the aged. These priority sub-populations include: low-income and minority aged; the aged in rural areas; physically and mentally impaired aged; aged with special social needs, including recent immigrants, migrants and seasonal farmworkers; aged women living alone; and other low-income or underserved older persons.

In addition, the 1978 Amendments to the Older Americans Act place emphasis on meeting the unique needs of the elderly living in rural settings and assuring that the needs of minority aged are addressed. Therefore, applications in response to any policy issue identified below which are limited in scope to the rural elderly or the minority elderly will receive consideration for funding, when such limitation is judged to be appropriate.

AoA particularly encourages and the Commissioner on Aging will give special consideration to applications submitted by eligible applicants for projects to be conducted by minority researchers within the framework of the priorities for research identified herein. This preference applies with reference to the following four minority groups: Black, Hispanic, Asian-American, and American Indian.

Areas for Which Proposals Are Solicited

In Fiscal Year 1981 the program is focused on policy concerns organized around the following three themes, or broad issue areas:

1. Impact of Aging on Society
2. The Elderly as a Resource
3. Services to Facilitate Well-Being of the Elderly

In each of the three themes, AoA has identified the following policy issues which applicants are expected to address in their proposals. Applicants may address more than one policy issue. However, each application should be limited to issues within one theme.

A researcher may submit an application which deals with policy issues not specified by AoA, or offers a rephrased or redirected version of a specified policy issue. Such applications will compete against all other applications submitted.

Theme 1. Impact of Aging on Society

1–A. Effects upon the aged family member of increased numbers of women in the workforce, from the perspective of availability and capacity of informal supports; and implications for changing demands on the formal service system.

1–B. Projected needs for, and supply of, acute and chronic care services including availability of manpower.

1–C. Effects of current and projected changes in family patterns on living arrangements (e.g. increased single-person households; mobility and access to social and community services), and implications for the delivery of social services for the aged.

1–D. Effects of changing demographic characteristics and needs of the aged on health and social service priorities and delivery; ability of communities to respond to those needs (with attention to implications for new or modified Federal legislation and program design).

1–E. Impact of specific technological advances on the aged in regard to one or more basic priorities (e.g. health care; alternatives to institutionalization; ability to remain in the workforce).

1–F. Implications of higher educational levels of the aged in the future in regard to their changing needs and demands for health and social service design and delivery.

1–G. Effects of demographic changes on community, area, and regional planning and delivery of health and social services for the aged (e.g. migratory trends toward the sunbelt states; increase in sub-populations of the aged in particular geographic areas including minorities, low-income aged, immigrants, women living alone; growth or decline in rural areas).

1–H. Implications for health and social service development and delivery by the private sector, as aged consumers constitute a growing market (with attention to needed incentives at the Federal level to stimulate market development of social services).

1–I. Effects of differential rates of growth, changing values and experiences within minority sub-populations (Asian, Black, Hispanic, and American Indian) on their future needs, interests, and demands for social services (with attention to contrasts among these sub-groups, and between minority and non-minority populations).

1–J. Economic implications of an aging population, with respect to employment and retirement patterns.

1–K. Impact of an aging population on pension systems.

Theme 2. The Elderly as a Resource

2–A. Need for reform in Federal and State programs and policies to increase opportunities for the aged in serving as providers of both formal and informal supports for their own peers, and younger persons.

2–B. Analysis of cost savings in public expenditures and effects of reimbursement or tax credits on providing more opportunities for the aged is social service provision.

2–C. Extent to which the aged are currently being used in service provider roles under larger Federally supported social service programs, such as Title III of the Older Americans Act, and Title XX.

2–D. Barriers and disincentives for using the aged in service provider roles (e.g. insurance problems, negative attitudes, need for specialized training, and job restructuring) with emphasis on ways in which these barriers are being overcome in exemplary programs.

2–E. Need for changes in national policies related to maintaining older persons in the workforce, while minimizing conflicts with youth employment programs.

2–F. Identification and analysis of exemplary industries which provide opportunities to the aged for continuing employment.

2–G. Analysis of successful advocacy efforts related to assisting aged litigants in taking cases under the Age Discrimination in Employment Act.

2–H. Identification and analysis of existing innovative activity at the community level which provide meaningful social and cultural roles for the aged, particularly those which involve the use of highly developed skills of retired persons.

2–I. Identification of ethnic, cultural and racial differences in the ways in which aged persons are perceived as resources in their communities (as well as providers of informal support for younger family members).

2–J. Effects of geographical differences (e.g. urban-suburban-rural) on opportunities for the aged to contribute their skills to the benefit of the community.

2–K. The adequacy of current Adult Basic Education Systems, policies and practices in meeting the needs of the aged.

Theme 3. Services to Facilities Well-Being of the Aged

3–A. The adequacy of age—or some combination of age and need—as a criterion for eligibility under the Older Americans Act and other Federal programs.

3–B. Development of operational definitions, procedures, and State and Area Agency on Aging reporting requirements to assure that services are reaching those aged with the "greatest social and economic need."

3–C. Methods for assessing unit of service costs for services in rurul areas in comparison with services in urban areas; and/or research designs and methods to evaluate cost-efficient techniques for service provision to the rural elderly.

3–D. Identification of the five *most* critical services which should be supported under Title III of the Older Americans Act, taking into account:

(a) Clearly identified client needs;

(b) Proven effectiveness of the service(s) in meeting those needs;

(c) The maximum benefit for the greatest number of aged persons across all sub-populations;

(d) Availability of appropriate service and administrative personnel.

3–E. The viability of nationally mandated or categorical Title III services, as opposed to other methods of directing Title III resources to community-determined social service priorities.

3–F. Options for minimizing overlap and duplication between the Older Americans Act and Title XX in regard to both target groups and services provided; and maximizing resources for all client groups.

3–G. Assessment of the most efficient and cost effective methods used by Area Agencies in providing or arranging for social services (with emphasis on needed Federal legislative and/or regulatory changes or Federally provided technical assistance to promote efficient service management).

3–H. Identification of, and distinction between, services which should be provided with Title III resources, and services which should be promoted through advocacy and cooperative arrangements with other agencies (at the Federal, State and sub-State levels).

3–I. Feasibility of formulating Title III resource allocation and infra-structural community change (advocacy; interagency cooperative arrangements) as two separate and distinct programmatic strategies.

3–J. Options for planning congregate-based aging services (e.g. nutrition projects; senior centers) as a "one-stop" delivery center and entry point for access to a total community service system (with emphasis on specific Federal legislative and regulatory requirements for achieving this end).

3–K. Definition, in practical terms, of the *minimal* requirements of a "comprehensive service system" for the aged, with emphasis on documented community experiences and models and findings regarding client outcomes over the past ten years. (Identification of *specific* Federal programs and policies which both enhance and impede the development of such systems).

3–L. The major societal implications of developing age-segregated vs. age-integrated social service systems, with attention to:

(a) The relative benefits and disadvantages for the aged constituency under both service system approaches;

(b) The relative benefits and disadvantages of both approaches for specific sub-populations among the aged (the low-income, minorities, the aged living alone, and the rural aged);

(c) The development of quality care for physically and mentally handicapped persons of all ages;

(d) The relative advantages and disadvantages of both approaches in promoting efficient management and accountability in the expenditure of public funds.

3–M. For any social service designed for the aged, or group of services (such as in-home services), determination of the adequacy of existing standards, performance objectives and performance measurment (with recommendations for improving performance assessment).

3–N. Identification of appropriate measures of *quality* of services provided to the aged. For specific services, appropriateness of inferring quality from: utilization rates; client satisfaction; appropriateness of the service relative to client need; and technical analysis (such as nutritional composition of food served and resultant dietary improvements).

Eligible Applicants

Any public or private, nonprofit agency, organization, or institution is eligible to receive a grant under this program.

Available Funds

For the two types of research products desired, the following budget ranges and anticipated duration of the grant period are:

Concept and Option Papers—$5,000 to $15,000; three to six months duration

Small-Scale Data Collection or Data Analysis—$25,000 to $75,000; six to twelve months duration

Approximately $600,000 will be available in Fiscal Year 1981 to support grants under the terms of this announcement. It is anticipated that three to five projects will be supported under each of the three themes, for a total of nine to fifteen awards. However, AoA reserves the discretion to fund less than three and more than five projects for any of the themes, depending on recommendations made to the Commissioner as a result of the review process, and the availability of funds.

Grantee Share of Project

Grantees are expected to provide at least 5 percent of the total project cost. The grantee share must be project

related and allowable under the Department's applicable cost principles in 45 CFR Part 74 (see 45 FR 26264, September 19, 1973).

The Application Process

Availability of Forms. All applications must be on standard form 424 and other forms provided for this purpose. Application kits which include the Guidelines, prescribed forms and instructions may be obtained by writing:

Division of Research (Guidelines), Administration on Aging, Office of Human Development Services, Room 3280 DHHS North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

Application Submission. One signed original and eight copies of the grant application, including all attachments, are requested to expedite the review applications. All application copies must be submitted to the addresses indicated in the application kit.

A–95 Notification Process. A–95 Clearinghouse procedures are *not* required for AoA Title IV–B Research and Development applications.

Application Consideration. The Commissioner on Aging will make the final decision on each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be considered. All conforming grant applications are subject to a comprehensive review and evaluation by qualified reviewers who are not employees of the Administration on Aging.

For purposes of the review process, proposals are classified into two categories: (1) data collection and data analysis projects; (2) concept or option papers. Both categories of proposals will be reviewed by two separate review panels. The first panel (technical review panel) will judge the technical merits of proposals using two different sets of criteria, one set for data collection and analysis projects and one set for concept and option papers, as described below. Proposals recommended for funding by the technical review panel will be submitted to the second review panel (program and policy relevance review panel) for an assessment of their program and policy relevance. This second review panel will rate all proposals using an additional set of criteria for this purpose, as described below. The outcome of this second review will be a final set of recommendations which the Commissioner on Aging will use in making funding decisions.

The Commissioner will take into account the recommendations of the reviewers, the comments of the State Agencies on Aging and the Regional AoA Offices, and the recommendations of AoA staff. Comments on the application may also be requested from appropriate specialists and consultants inside and outside of government. The Commissioner will endeavor to balance awards among the three theme areas.

Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the total grantee participation for the budget period, the effective date of the award, and the budget period for which support is given.

Criteria for Review and Evaluation of Applications

Criteria for Technical Review of Data Collection and Data Analysis Projects: First Review Panel

Criterion I: Program and Policy Relevance (10 Points).

The proposed project will provide measurable results that can be used to significantly increase the effectiveness of a program for the aged, or results that can be used by aging network staff and other Federal, State, or sub-State policymakers in the formulation and implementation of major policies affecting the aged.

Criterion II: Conceptual Framework (15 Points).

A. The problems to be addressed by the project are clearly delineated.

B. The proposal adequately reviews the literature in the subject area of the project.

C. Research questions are conceptually linked to policy issues.

D. The conceptual framework is adequately translated into an operational statement. The objectives of the proposed project are clearly stated in operational terms.

Criterion III: Methodology (50 Points).

A. The design of the research project is capable of achieving the proposed objectives.

B. The data to be utilized in the proposed project are fully described. Convincing evidence is presented that the data exist in the form described and can be collected or accessed in an efficient and timely manner. The data to be collected are adequate for the type of analysis and level of abstraction proposed.

C. The proposal contains a clearly delineated plan for analysis and level of abstraction proposed.

Criterion IV: Project Implementation Plan (10 Points).

A. The application describes a sound plan for task accomplishment over the proposed project period and staff loadings by task.

B. The application contains suitable statement of the expected utilization value of the results of the project, which specifies who the proposed audience is and how the results will benefit this audience.

Criterion V: Staffing and Management (10 Points).

A. The proposed project staff are well qualified to carry out the project.

B. The assignment of responsibilities is appropriate for carrying out project tasks, including sufficient time of senior staff to assure adequate management of the project.

C. The applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project.

Criterion VI: Budget Appropriateness and Reasonableness (5 Points).

The proposed budget is commensurate with the level of effort needed to accomplish the project objectives, and the cost of the project is reasonable in relation to the value of the anticipated results.

In addition to assigning numerical scores in applying the above six criteria, the technical review panel will classify the overall merit of the proposal using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Criteria for Review of Program and Policy Relevance: Second Review Panel

Criterion I: Approach (20 Points).

The application presents an approach that is appropriate, and if followed as proposed, will achieve the objectives of the project.

Criterion II: Program and Policy Relevance (60 Points).

A. The project addresses timely public policy issues that affect a considerable number of aged persons.

B. The proposed project will provide measurable results that can be used to formulate major policies affecting the aged; or results that can be used by policymakers, administrators, or service providers to significantly increase the effectiveness of an existing program for the aged.

C. The proposed research will make a significant contribution to knowledge in the field of aging.

D. The intended audiences for the results are clearly specified, including the aging network and other Federal,

State, and sub-State policymakers, administrators, or service providers.

Criterion III: Priority Sub-Populations (20 Points).

The proposed project will provide *significant* results regarding program and policy priorities affecting one or more of the following subpopulations:

1. minority aged
2. rural aged
3. physically and mentally impaired aged
4. the old-old (persons 75 years of age and older)
5. recent immigrants 60 years of age and older
6. aged migrants and seasonal farmworkers
7. aged women living alone
8. other low-income or underserved elderly

Final recommendations to the Commissioner will be made by the program and policy relevance review panel through rank ordering of all proposals reviewed based on numerical scores received under the above three criteria, and classification of proposals using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Criteria for Technical Review of Concept and Option Papers: First Review Panel

Criterion I: Program and Policy Relevance (15 Points).

The proposed project will provide measurable results that will significantly contribute to the effectiveness or development of a program for the aged, or results that can be used by aging network staff and other Federal, State, or sub-State policymakers in the formulation and implementation of major policies affecting the aged.

Criterion II: Conceptual Framework (60 Points).

A. The problems to be addressed by the project are clearly delineated.

B. The proposal adequately reviews the literature in the subject area of the project.

C. Research questions and theoretical propositions are conceptually linked to policy issues.

D. The conceptual framework and objectives of the inquiry are clearly stated and are designed in such a way as to propose program or policy options and alternatives.

Criterion III: Project Implementation Plan (10 Points).

A. The application describes a sound plan for task accomplishment over the proposed project period and staff loadings by task.

B. The application contains a suitable statement of the expected utilization value of the results of the project, which specifies who the proposed audience is and how the results will benefit this audience.

Criterion IV: Staffing and Management (10 Points).

A. The proposed project staff are well qualified to carry out the project.

B. The assignment of responsibilities is appropriate for carrying out project tasks, including sufficient time of senior staff to assure adequate management of the project.

C. The applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project.

Criterion V: Budget Appropriateness and Reasonableness (5 Points).

The proposed budget is commensurate with the level of effort needed to accomplish the project objectives, and the cost of the project is reasonable in relation to the value of the anticipated results.

In addition to assigning numerical scores in applying the above five criteria, the technical review panel will classify the over-all merit of these proposals using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Recommend proposals for concept and option papers will be submitted to the program and policy relevance review panel (second review panel) following the same procedures as those used in forwarding recommended data collection and analysis projects. The same criteria will be used in judging the program and policy relevance merits of proposals for concept and option papers as will be used in judging the program and policy relevance of data collection and data analysis projects (see *Criteria for Review of Program and Policy Relevance: Second Review Panel*, listed above).

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is January 23, 1981. Applications may be mailed or hand delivered. Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

(Catalog of Federal Domestic Assistance Number 13.636, Research and Development Projects in Aging)

Dated: November 12, 1980

Approved: November 17, 1980

Robert Benedict,

Commissioner on Aging.

Katie Morrison,

Acting Assistant Secretary for Human Development Services.

Regional Offices, Administration on Aging, Office of Human Development Services, Department of Health and Human Services

Region I

John F. Kennedy Federal Building, Room 2007, Boston, Massachusetts 02203 (R.I., Vt., Conn., Maine, Mass., N.H.), Telephone: 617–223–6885

Region II

26 Federal Plaza, Room 4106, Broadway and Worth Streets, New York, New York 10007 (N.J., N.Y., P.R., Virgin Islands), Telephone: 212–264–4592

Region III

P.O. Box 13716, Philadelphia, Pennsylvania 19101 (D.C., Md., Va., W.Va., Del., Pa.), Telephone: 215–596–6892

Region IV

101 Marietta Towers, Suite 901, Atlanta, Georgia 30323 (Ala., Fla., Miss., S.C., Tenn., N.C., Ky., Ga.), Telephone: 404–221–5900

Region V

300 South Wacker Drive—15th Floor, Chicago, Illinois 60606 (Ill., Ind., Mich., Minn., Ohio, Wisc.), Telephone: 312–353–3141

Region VI

Fidelity Union Tower Bldg., Rm. 500, 1507 Pacific Avenue, Dallas, Texas 75201 (Ark., La., Okla., N. Mexico, Texas), Telephone: 214–767–2971

Region VII

601 East 12th Street, Kansas City, Missouri 64106 (Iowa, Kansas, Missouri, Nebraska), Telephone: 816–374–2955

Region VIII

Federal Office Building, Rm. 7430, 19th and Stout Streets, Denver, Colorado 80202, Telephone: 303–837–2951

Region IX

50 United Nations Plaza, Room. 206, San Francisco, California 94102 (Cal., Nev., Ariz., Guam, Hawaii, Samoa), Trust Territories and No. Marianas, Telephone: 414–556–6003

Region X

Arcade Plaza Bldg.—1321 Second Avenue, Mail Stop 622, Seattle, Washington 94101 (Alaska, Idaho, Oregon, Washington), Telephone: 206–442–5341

[FR Doc. 80-36331 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference for Children and Youth Technical Advisory Committee; Establishment

AGENCY: Office of Human Development Services, DHHS.

ACTION: Notice of Advisory Committee Establishment.

PURPOSE: The White House Conference for Children and Youth Technical Advisory Committee will be convened in order to provide expert guidance in development of issues to be considered and technical documents to be used by the Conference.

DATES: The charter for this Committee was signed by the Secretary of Health and Human Services on October 16, 1980. The Committee will terminate no later than 180 days following the date of adjournment of the Conference or when its work has been completed, whichever is sooner.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Potter, Special Assistant to the National Advisory Committee, White House Conference for Children and Youth, 730 Jackson Place, N.W., Washington, DC 20006, 202–456–6440.

SUPPLEMENTARY INFORMATION: This Committee is being formed to assist in the definition of issues to be developed at the Conference, and shall assist in the development of scientific and technical documents related to issues under consideration by the Conference by providing advice and recommendations to the 1981 White House Conference for Children and Youth.

Dated: November 17, 1980.

Mamie J. Welborne,

Human Development Services, Committee Management Officer.

[FR Doc. 80-36332 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

National Advisory Committee on the White House Conference on Families, Special Subcommittee on Implementation; Meeting

The National Advisory Committee on the White House Conference on Families was established to advise the Secretary, the Chair of the Conference, and the Conference staff on matters pertaining to the Conference, including the development, implementation, and execution of overall plans and procedures for the Conference. The Special Subcommittee on Implementation was appointed by the National Advisory Committee to monitor and advise the full National Advisory Committee on the implementation period of the White House Conference on Families. This ad hoc subcommittee is composed exclusively of members of the committee of the whole.

In accordance with Pub. L. 92–463, notice is hereby given of a meeting of the subcommittee to be held on Sunday, December 7, 1980 from 2:00 p.m. to 8:00 p.m. in Room 629 of the Reporters Building, located at 300 7th Street, SW., Washington, D.C. 20201.

Deliberations of the subcommittee will concern activities as an ongoing monitoring and advocacy body, assistance from the White House, and relations with the Office for Families. This meeting will be open for public observation.

On December 8, 1980 from 9:30 a.m. to approximately 5:00 p.m., the committee of the whole will meet in Room 1132—Horace Mann Learning Center of the Dept. of Education Building, located at 400 Maryland Ave., Washington, D.C. 20021. The agenda will include a review of events since the Task Force Meeting, continuing implementation activity, and discussion of outside monitoring and advocacy body.

This meetings will also be open to the public, but seating space will be limited.

Further information on the meetings may be obtained from the White House Conference on Families at 330 Independence Avenue, SW., Washington, D.C. 20201; telephone number 202–245–6073.

John L. Carr,

Executive Director.

Dated: November 17, 1980.

[FR Doc. 80-36411 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation

Poverty Research Center; Grant Applications

Pursuant to Section 232 of the Community Services Act of 1974 and Title 45, Part 63 of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from university-based agencies, organizations and institutions for a grant that would support a Poverty Research Center. The Center would be expected to plan and conduct a broad program of basic and policy research on the nature, causes and effects of poverty. This grant will replace the core grant which has been made non-competitively to the Institute for Research on Poverty by the Department of Health, Education and Welfare (now Health and Human Services) for the past seven years.

A. Type of Application Requested

This announcement seeks applications for a grant to develop and conduct an inter-disciplinary program of quantitative and qualitative research on the determinants of economic inequality and related social problems. The program will include basic research into the nature, causes, and effects of changes in the distribution of income, mobility patterns, and the incidence of poverty. The program will also include policy research into the effects of specific government programs on the income distribution, economic mobility, and the incidence of poverty, and the ability of alternative approaches to reduce the amount of poverty, encourage mobility, or alleviate the effects of low income.

1. *Research Program.* The Center will be expected to plan, initiate and maintain a poverty research program of high caliber. This should include supporting the work of members of the Center staff, as well as providing intellectual leadership in the research community by establishing links with a broad range of other scholars studying poverty issues, through visiting and postdoctoral appointments, research agendas, conferences and seminars, publications, and a limited program of nonresident grants, for example. The research program should include the approaches of several disciplines to increase the understanding of the issues beyond what is possible from analysis within the framework of a single discipline. At a minimum, the staff should include competency in economics and sociology, along with at least two other disciplines.

The research program should also include a mixture of quantitative and qualitative research projects. Quantitative research that involves the collection of data and its statistical analysis must be complemented by qualitative research that involves case studies and analyses of the structure of institutions and markets, theoretical analyses (based on both quantitative research findings and case studies) of the economic, social, and political processes and institutions that together generate economic inequality, and discussions of the policy implications of research findings. It is expected that the research program will support work that produces major advances at the frontiers of knowledge in the poverty field. It is, for example, appropriate to consider use of the grant to make advances in research techniques, where they are needed for or related to poverty research.

To assure the quality of the research and a careful examination of the output of the Center within the academic community, the Center must establish and maintain a formal tie with a university, including links with relevant departments within that university. The applications should discuss how those links will be assured. It is also important that the continuity of the poverty research program supported by Community Service Act funds be maintained; hence the application should specify in detail how administrative arrangements will be made to minimize start-up and transition delays. In general, the work of the Center will be self-initiated and self-directed. However, the Assistant Secretary (or his or her designee) must approve the plans for the year's research before expenditures from the grant for that year can be made; and the Center and its staff members may from time to time be asked to comment on research plans, serve on panels to evaluate research proposals, and provide critical commentary on research products.

2. *Content and Organization of Application.* The application must begin with the required application forms and a three to five page overview and summary of the application. Staff resumes should be included in a separate appendix. The central core of the application must contain four sections, presented in the following order:

(a) An *analysis* of the nature, causes, and effects of recent changes in the income distribution, individual mobility within the overall distribution, and the incidence of poverty. The analysis should discuss both the factual evidence on changes and research on the causes and effects of the changes. The discussion should emphasize (but not necessarily be limited to) the past twenty years. It should in no way be limited to a discussion of the contributions that have been made by the Institute for Research on Poverty although it should not, of course, ignore those contributions. Examples of the kinds of issues that should be discussed include the effects of demographic trends (changes in fertility, marital stability, and migration, for example), the effects of inflation, the effects of changing rates of aggregate and sectoral economic growth and related shifts in the location and types of jobs available, the effects of the growth of fringe benefits as part of total compensation, the effects of alterations in government transfer, tax, employment, and macroeconomic stabilization policies, and the effects of these developments and the resulting changes in economic inequality on existing government programs and the demand for new or revised programs.

(b) A *prospectus* for poverty research, outlining the major poverty research themes to be articulated over the next seven years. The prospectus should discuss the kind of poverty research activities that are needed to anticipate future policy debates and the role of the proposed Poverty Research Center in promoting those activities. The prospectus should not assume continued effort by the Institute for Research on Poverty at the same level as over the past fourteen years, since, as indicated earlier, this grant is proposed to replace the core grant of the Institute. The prospectus should follow from the historical analysis section. It may, of course, also discuss research areas and issues that were not mentioned in that analysis if the author or authors of the application feel there have been gaps in past research, or that new factors have or soon will begin to affect income distribution, mobility patterns, and the incidence of poverty. The prospectus may discuss research issues from a government program or social problem perspective as long as these perspectives are clearly connected in the application to the announcement's central concern with economic inequality.

While this prospectus will not include the kind of detailed descriptions of individual research projects that will be expected in the Center's annual research plans, it should be specific about long-term research themes. The lines of research described in the prospectus should be concrete enough that project descriptions in subsequent annual research plans can be viewed as articulating a research theme discussed in the prospectus. An application that simply contains an *ad hoc* categorization of an unstructured set of research projects will be judged unacceptable.

(c) A staffing and organizational *proposal* for the Poverty Research Center, including an analysis of the types of background needed among staff members, the Center's organizational structure, and linkages with the host university and other organizations. It is in this third section that the application should specify how it will assure a genuinely interdisciplinary approach to poverty research where appropriate, the necessary links to university departments, other organizations and scholars engaged in poverty research, and the continuity of the present poverty research program. Full resumes of proposed staff members should be included as a separate appendix to the application. The time commitment to Center for each proposed staff member should be indicated. The kinds of administrative and tenure arrangements the Center proposes to make should also be discussed in this section. In addition, the author(s) of the application and the role which he or she (they) will play in the proposed Poverty Research Center must be specified.

(d) A *summary* of past work at the university and at the existing institution proposed as the location of the new Poverty Research Center that relates directly or indirectly to the nature, causes, and effects of changes in the distribution of income, mobility patterns, and the incidence of poverty. Where specific individuals are proposed for the staff of the Center, it is legitimate to discuss their past research, whether or not it took place in either the institution proposed to be the location of the new Poverty Research Center or the host university.

B. Applicable Regulation

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the *Code of Federal Regulations* on October 1, 1979.

2. "Administration of Grants" (45 CFR Part 74), which was published in the *Code of Federal Regulations* on August 2, 1978, and amendments thereto published in the **Federal Register** May 22, 1980, May 27, 1980 (with correction May 30, 1980) and June 3, 1980.

3. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouse under the procedures in OMB Circular A-95.

C. Effective Date and Duration

1. The grant award pursuant to this announcement will be made on or about April 1, 1981. However, only a limited amount of the grant award (the exact amount will be determined by the grant Project Officer) will be available immediately to ensure the continuity of the poverty research program. The remainder of the grant award is intended for use during the year July 1, 1982 through June 30, 1983, following the approval by the Assistant Secretary (or his or her designee) of a detailed one-year research plan submitted by the Center no later than April 15, 1982.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Application will be accepted no later than January 30, 1981.

D. Statement of Funds Availability

1. The Assistant Secretary has available about $1,450,000 for the Fiscal Year ending September 30, 1981 for the award of a grant pursuant to this announcement.

2. The amount of funds available for the grant in future years has not been established. Legislative support for continued funding of the Center cannot be guaranteed. The tentative expectation is that the Center will be supported during future Fiscal Years at a level of effort that is at least as high as that during the initial period.

3. Applications are requested for an initial grant award for the period ending June 30, 1983. It is expected, however, that subsequent grant awards for up to six additional years may be made non-competitively, assuming the winner of the initial award plans and carries forth a research program that is judged to be of high caliber in the opinion of the Assistant Secretary. Future funding is in no way guaranteed.

E. Applications Processing

1. Applications will be reviewed by an intergovernmental review panel, possibly augmented by outside experts. Two (2) copies of each application are required.

2. Applicants will be judged as to eligibility according to the criteria set forth below in item 6. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications.

4. Applications should be as brief and concise as is consistent with communication with the reviewers. In no case should an application (excluding the resume appendix) be longer than 150–200 pages; it should neither be unduly elaborate nor contain voluminous supporting documentation.

5. The limited amount of funds available for this grant may indicate the desirability of using these funds as partial, core support for the proposed Center and of seeking additional support from other sources. The availability, potential availability or hope for other funds, and the uses to which they would be put, should be documented in the application.

6. *Criteria for Evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parenthesis.

(a) Quality of the historical analysis of economic inequality. (See Part A, Type of Application Requested, Section 2, subsection (a).) (15 points)

(b) Quality of the prospectus for poverty research. (See Part A, Section 2, subsection (b).) (35 points)

(c) Quality of the staffing proposal and proposed organizational arrangements. Staff will be judged on both poverty research experience and demonstrated research skills. Staff time commitments to the Center will also be a factor in the evaluation. (See Part A, Section 2, subsection (c).) (30 points)

(d) Quality of the summarized research and publications. This will include evaluation of work done at the university and proposed institution that will contain the Center, as well as work done by proposed staff members, wherever performed. (See Part A, Section 2, subsection (d).) (20 points)

7. Nothing in this announcement should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than January 30, 1981, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily during normal business hours (between the hours of 9:00 a.m. and 5:30 p.m., Washington, D.C. time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after the close of business on January 30, 1981.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as are deemed necessary or desirable for the initiation and operation of the Poverty Research Center; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

Dated: October 14, 1980.

John L. Palmer,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 80-36471 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Consumer Affairs Council Meeting

SUMMARY: This notice announces the date and time of the next regular HHS Consumer Affairs Council meeting. All are welcome to attend as observers and participate in an open discussion period that would be held during the last half hour of the meeting. If you would like an agenda, please contact Susan L. Randolph. A hearing interpretor will be provided for the deaf.

DATE: Wednesday, December 3, 1980, 10 to 12 noon.

ADDRESS: 200 Independence Ave., S.W., Room 800, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Susan L. Randolph, Assistant—Consumer Affairs Office, 200 Independence Avenue, S.W.—Rm. 622E, Washington, D.C. 20201, (202) 245–0409.

Dated: November 17, 1980.

Belle B. O'Brien,

Assistant to the Secretary for Consumer Affairs.

[FR Doc. 80-36470 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS), established pursuant to 42 USC 242K, section 306(K)(2) of the Public Health Service Act, as amended, will convene on Tuesday, December 9, 1980, at 9:15

a.m. and Wednesday, December 10, 1980, at 8:45 a.m., in the Auditorium of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Agenda items for discussion will include Subcommittee and Committee plan development; Environmental Health Statistics Activities; Cooperative Health Statistics System update; HCFA Issues and Activities; Long-Term Care Statistical Activities. Agenda items are subject to change as priorities dictate. These meetings are open for public observation and participation.

Further information regarding the Committee may be obtained by contacting Samuel P. Korper, Ph.D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A-55, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301-443-2660.

Dated: November 13, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-36308 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1038]

Acting Secretary of Housing and Urban Development; Order of Succession

Correction

In FR Doc. 80-34367 appearing at page 73141 in the issue of Tuesday, November 4, 1980, make the following changes:

(1) On page 73141, third column, sixth line from bottom of page, "Management," should be corrected to read "Manager,".

(2) On page 73142, first column, line 13, "Region VII" should be corrected to read "Region VIII".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Proposed Outer Continental Shelf Oil and Gas Lease Sale; Availability of Draft Environmental Impact Statement and of Location and Dates of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 59

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement relating to a proposed Outer Continental Shelf oil and gas lease sale of 253 tracts of submerged Federal lands off the coasts of New York, Delaware, New Jersey, Maryland, and Virginia.

Single copies of the draft environmental impact statement can be obtained from the Office of the Manager, New York OCS Office, Bureau of Land Management, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10278 and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental impact statement will also be available for reviewing in the following libraries: New York Public Library, 5th Avenue and 42nd Street, New York, NY 10018; Nassau Library System, Lower Concourse, Roosevelt Field, Garden, NY 11530; Suffolk Cooperative Library System, 627 North Sunrise Service Road, P.O. Box 1872, Bellport, NY 11713; Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608; Atlantic City Free Public Library, Illinois and Pacific Avenue, Atlantic City, NJ 08401; Providence Public Library, 150 Empire Street, Providence, RI 02903; Newport Public Library, Aquidneck Park, Newport, RI 02840; Free Library of Philadephia, Logan Circle, Philadelphia, PA 19141; Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971; Wilmington Institute Free Library and Newcastle County Free Library, 10th and Market Streets, Wilmington, DE 19801; Eastern Shore Area Library, 122-126 South Division, Salisbury, MD 21801; Enoch Pratt Free Library, 400 Cathedral Street, Baltimore, MD 21201; Norfolk Public Library System, 301 South City Hall Avenue, Norfolk, VA 23510; Atlantic County Library, Surrogate Building, Mays Landing, NJ 08330; Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753; Cumberland County Library, 800 E. Commerce Street, Bridgeton, NJ 08302; Monmouth County Library, 25 Broad Street, Freehold, NJ 07728; Sea Isle City Public Library, 105 45th Street, Sea Isle City, NJ 08243; Cape May City Public Library, 639 Washington Street, Cape May, NJ 08204; Boston Public Library, Copley Square, Boston, MA 02117; Provincetown Public Library, 33 Commercial Street, Provincetown, MA 02657; Falmouth Public Library, Main Street, Falmouth, MA 02540; Fall River Public Library, 104 North Main Street, Fall River, MA 02720; Christian Science Monitor, 1 Norway Street, Boston, MA 02115.

In accordance with 43 CFR 3314.1, public hearings on the draft environmental impact statement are scheduled to be held on January 20, 1981, in the Garden State Ballroom of the Hilton Gateway Hotel, Raymond Boulevard, Newark, New Jersey and on January 22, 1981, in the Main Ballroom of the Omni International Hotel, 777 Waterfront Drive, Norfolk, Virginia. The hearings will begin at 9:00 a.m., and will conclude at 5:00 p.m. or earlier, if all scheduled witnesses have testified.

The hearing will provide the Secretary of the Interior with information from government agencies, public and private groups to help evaluate the potential effects of the proposed offering. Comments are solicited concerning effects of exploration, development and production resulting from the proposed sale on marine, cultural, recreational and other resources of the Mid-Atlantic region.

Interested individuals, representatives or organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:30 p.m., January 16, 1981. Written comments from those unable to attend the hearing also should be addressed to the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address. The Bureau will accept written testimony and comments on the draft environmental impact statement until January 28, 1981. This will allow those unable to testify at the hearing to make their views known, and those presenting oral testimony to submit supplemental materials. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to a hearing official at the time of presentation. To the extent that time is available after presentation of oral statements by those who had given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and considered, a

final environmental impact statement will be prepared.

George D. Lea,

Deputy Director, Bureau of Land Management.

Approved:

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 80-36319 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

[W-72613]

Michigan Wisconsin Pipe Line Co. of Detroit, Mich.; Notice of Application

November 13, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Michigan Wisconsin Pipe Line Company of Detroit, Michigan, filed an application for a right-of-way to construct one 8-inch pipeline and two 6-inch O.D. pipelines, and two 100-foot x 150-foot well head metering facilities sites for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 91 W.,
Sec. 17, SE¼SW¼;
Sec. 19, N½SE¼;
Sec. 20, E½W½, NW¼SW¼;
Sec. 21, E½SW¼;
Sec. 28, E½NW¼, NE¼SW¼;
Sec. 29, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 30, E½SE¼.

The proposed pipelines will connect with the Steffin Hill #17–1 well in section 17, Steffin Hill #19–1 well in section 19, and Steffin Hill #21–1 well in section 21. The pipelines will supply additional quantities of natural gas to their customers, and will tie into Colorado Interstate Gas Company's gathering system. The metering facilities will be constructed at the well sites as outlined above.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-36292 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

[Nev-044897 and Nev-044898]

Nevada; Proposed Continuation of Withdrawal

November 12, 1980.

The Bureau of Land Management, U.S. Department of the Interior, proposes that the two existing land withdrawals made by Public Land Order 2013 on October 22, 1959, be continued for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The purpose of the withdrawals is to protect the U.S. Army flood control dam projects at Mathews and Pine Canyon Dams.

The withdrawn land proposed for continuation is described as follows:

Mount Diablo Meridian

T. 5 S., R. 69 E.,
Sec. 24, E½SE¼SW¼;
Sec. 25, SE¼NE¼;
Sec. 29, W½SW¼SW¼;
Sec. 30, E½SW¼SE¼ and SE¼SE¼;
Sec. 31, NE¼NE¼, NE¼NW¼NE¼, and N½SE¼NE¼;
Sec. 32, NW¼NW¼NW¼, S½NW¼ NW¼, and SW¼NW¼.
T. 5 S., R. 70 E.,
Sec. 19, SW¼SE¼SE¼;
Sec. 30, Lot 2, W½E½NE¼, SE¼NW¼, N½NE¼SW¼, and N½N½SE¼.

The area described aggregates approximately 466.29 acres in Lincoln County Nevada. This land is segregated from appropriation under the public land laws, including the mining, mineral leasing and disposal of materials laws.

Mount Diablo Merdidan

T. 5 S., R. 69 E.,
Sec. 32, SW¼SW¼NE¼, NW¼NW¼ SE¼, NW¼NE¼SE¼, S½N½SE¼, S½SE¼, E½SE¼SW¼, NE¼SW¼, NE¼NW¼SW¼, SE½NW¼, and SW¼NE¼NW¼;
Sec. 33, SW¼NW¼SW¼, NW¼SW¼SW¼, S½SW¼SW¼, and SW¼SE¼SW¼.
T. 6 S., R. 69 E., (Unsurveyed),
Sec. 4, W½NE¼NW½, NW¼NW¼, NE¼SW¼NW¼, and W½SE¼NW¼;
Sec. 5, E½NE¼NE¼, NW½NE¼, NW¼SW¼NE¼, E½NE¼NW¼, and NE¼SE¼NW¼.

The area described aggregates approximately 510 acres in Lincoln County, Nevada. This land is segregated from appropriation under the public land laws, including the mining laws, but not the mineral leasing nor disposal of materials laws.

For a period of 30 days, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 30 days. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520.

William J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-36293 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

[A-11811]

Public Lands in Greenlee County, Arizona; Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Township 6 South, Range 30 East, G&SRM,
Section 1: A portion of the N½ Lot 4 lying west of the highway right-of-way. Containing 8.94 acres more or less.

In exchange for these lands, the federal government will acquire non-federal land in the Apache-Sitgreaves National Forest from Ronald C. and Catherine M. Waldorf. This non-federal land is also in Greenlee County. The description of the non-federal land is as follows:

Township 4 South, Range 32 East, G&SRM,
Sections 19 and 20: A portion of Homestead Entry Survey 509
Beginning at a point South 8°56' East 792.22 feet from Corner No 1, H.E.S. No. 509 thence due East for a distance of 424.52 feet, thence South 6°
44' West for a distance of 178.67 feet, thence South 5°
34' West for a distance of 128.36 feet, thence South 13°
59'30" West for a distance of 212.64 feet, thence South 33°
41' West for a distance of 88.50 feet, thence South 43°
25' West for a distance of 126.21 feet, thence South 27°
46' West for a distance of 128.53 feet, thence South 11°
42' West for a distance of 55.32 feet, thence North 8°
56' West for a distance of 855.07 feet, to the point of beginning.
Beginning at corner No. 1 H.E.S. 509 thence South 79° East for a distance of 360.14 feet, thence due South for a distance of 713.88 feet, thence due West for a distance of 230.50 feet, thence North 8° 56' West for a distance of 792.22 feet to the point of beginning, less one acre in the NW corner. Containing 8.94 acres more or less.

The purpose of the exchange is to acquire non-federal lands within the forest for federal programs and better land management. The exchange will allow the acquisition of land for commercial development in the Three Way Junction area. the exchange is consistent with the Bureau's planning for the lands involved. The exchange has been discussed with Greenlee County officials. The public interest will be well served by making the exchange.

The value of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States of funds in an amount not to exceed 25% of the total value of the lands to be transferred out of federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: There will be reserved to the United States rights-of-way for ditches and canals pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945. Reservations concerning the mineral estate will be made following the completion of a mineral survey of the public lands. There are no reservations for the offered lands.

Detailed information concerning the exchange, including the environmental assessment and the record of public input, is available for review at the Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Up until January 21, 1981, interested parties may submit comments to the Secretary of the Interior, LLM-320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department.

Vernon L. Saline,

Acting District Manager.

November 13, 1980.

[FR Doc. 80-36294 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[F-14832-A and F-14832-B]

Alaska Native Claims Selections

On November 11, 1974, Central Native Corporation, for the Native village of Anvik, filed selection application F-14832-A and on December 12, 1974, filed selection application F-14832-B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Anvik, withdrawn prusuant to Sec. 11(a)(1).

On October 30, 1979, pursuant to the provisions of the Alaska Business Corporation Act, the Native village of Anvik (Central Native Corporation) amended its Articles of Incorporation changing the corporate name to Ingalik, Incorporated.

Ingalik, Incorporated, in its application, excluded unnamed lake in Secs. 13 and 14, T. 28 N., R. 60 W., Seward Meridian. Because this body of water has been determined to be nonnavigable, it is considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water body which was improperly excluded in the application of Ingalik, Incorporated, is considered selected.

On April 1, 1977, the State of Alaska filed general purposes selection application AA-12880, as amended, for all unpatented land in T. 28 N., R. 59 W., Seward Meridian, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)).

Section 6(b) of the Alaska Statehood Act states that general purposes selections shall be made from the public lands of the United States in Alaska which are vacant, unappropriated and unreserved at the time of their selection.

At the time of filing of the State's selection application, the following lands were withdrawn by Sec. 11 of ANCSA, and properly selected pursuant to Sec. 12 of ANCSA by Ingalik, Incorporated, for the Native village of Anvik. Therefore, these lands were unavailable for selection by the State. Accordingly, State selection application AA-12880 must be and hereby is rejected as to the following described lands:

Seward Meridian, Alaska

T. 28 N., R. 59 W.,
Sec. 1, lots 1 and 3;
Sec. 2, lots 2 and 3;
Sec. 3, lots 1 and 3;
Sec. 4, lots 2 to 6, inclusive;
Sec. 5, lots 1 and 3;
Sec. 6, lot 1 excluding unnamed slough connecting the Bonasila River and Deadman's Slough, and lot 3;
Sec. 7, lots 1, 3, and 5;
Sec. 8, lots 1, 3, and 5;
Sec. 9, lots 1, 3, 4, and 5;
Sec. 10, lots 1, 3, 4, and 6;
Sec. 16, lots 1, and 3;
Sec. 17, lots 1, 3, and 5;
Sec. 18, lots 1, 3, and 5;
Sec. 24, lot 1.
Containing approximately 7,069 acres.

The State-selected lands rejected above were not valid selections and will not be charged against the village corporation as State-selected lands. Further action on the subject State selection application, as to those lands

not rejected herein, will be taken at a later date.

As to the lands described below, the applications are properly filed and meet the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 83,174 acres, is considerd proper for acquisition by Ingalik, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska

T. 30 N., R. 57 W.,
Secs. 6 and 7.
Containing 1,238.93 acres.
T. 31 N., R. 57 W.,
Sec. 5;
Sec. 6, lot 1;
Secs. 8, 17, and 20;
Secs. 29 to 32, inclusive.
Containing 5,575.90 acres.
T. 28 N., R. 58 W.,
Sec. 6;
Sec. 7, lots 1 and 3;
Sec. 18, lot 1 excluding Native allotment F–13848, lots 3 and 4;
Sec. 19, lots 1 and 3.
Containing approximately 2,080 acres.
T. 29 N., R. 58 W.,
Sec. 2;
Sec. 3, lots 1, 3, and 4;
Sec. 4, lots 1, 3, and 4;
Sec. 6;
Sec. 7, lot 1 excluding Deadman's Slough;
Sec. 9, lots 2 and 3;
Sec. 10, lot 1 excluding Native allotment F–13883, and lot 4;
Sec. 11;
Sec. 14, excluding Native allotment F–16277;
Sec. 15, lot 1 excluding Native allotment F–16277, lots 2 and 3, and lot 4 excluding Native allotment F–14798;
Sec. 19, lots 1 and 3;
Sec. 22, lots 1, 3, 4, and 5;
Secs. 23 and 26;
Sec. 27, lots 1 and 3;
Sec. 28, lot 1;
Sec. 30, lots 1, 2, and 3;
Sec. 31, lots 1, 2, 3, 5, and 6;
Sec. 32, lots 2 and 3;
Sec. 33, lots 1 and 3;
Sec. 34, lots 1 and 3;
Sec. 35.
Containing approximately 10,588 acres.
T. 30 N., R. 58 W.,
Sec. 1;
Sec. 2, lot 1;
Sec. 3, lot 2;
Secs. 4 to 7, inclusive;
Sec. 8, lot 1 excluding Native allotment F–13889, and lot 3;
Sec. 9, lot 2 excluding Native allotment F–13856, and lot 3;
Sec. 10, lots 2 and 3;
Sec. 11, lots 1, 3, 4, and 6;
Sec. 12;
Sec. 13, lots 1 and 2;
Sec. 14, lots 1, 3, 5, and 6;
Sec. 15, lot 2 excluding Native allotment F–13886, lots 4 and 5;
Sec. 16, lots 2, 3, and 4;
Sec. 17, lot 1, and lot 3 excluding Native allotment F–13889;
Sec. 18, lots 1 and 3 excluding Native allotment F–13853;
Sec. 19, lots 2 and 3, lot 4 excluding Native allotments F–13887 and F–15244 Parcel B, lots 5, 7, 8, and 9;
Sec. 20, lots 2 to 8, inclusive;
Sec. 21, lots 1, 3, and 4;
Sec. 22, lots 2 and 3;
Sec. 23, lots 1 and 3;
Sec. 24, lots 1, 2, and 3;
Sec. 25, lots 1 and 2;
Sec. 26, lots 1 and 3;
Sec. 27, lots 1, 3, and 4;
Sec. 28, lots 1 and 3;
Sec. 29, lots 2, 3, 4, and 5;
Sec. 30, lots 1, 2, and 4, lot 5 excluding Native allotments F–8855 Parcel A and F–13887, lots 7, 8, and 9;
Sec. 31, lot 1;
Sec. 32, lot 1;
Sec. 33, lots 1 and 3;
Sec. 34, lots 1, 3, 5, and 6;
Sec. 35, lots 1 and 3;
Sec. 36.
Containing approximately 17,057 acres.
T. 31 N., R. 58 W.,
Sec. 1, lot 2 excluding Native allotment F–13799;
Sec. 2, excluding Native allotment F–13799;
Sec. 12, lot 2 excluding Native allotment F–14292 Parcel B;
Secs. 15, 16, 21, and 22;
Sec. 25, lots 1 and 3;
Sec. 26, lots 2 and 3;
Sec. 27, lot 1;
Secs. 28, 29, and 32;
Sec. 33, excluding Native allotment F–15279 Parcel A;
Sec. 34, lot 2;
Sec. 35, lot 2;
Sec. 36, lot 1.
Containing approximately 7,994 acres.
T. 28 N., R. 59 W.,
Sec. 1, lots 1 and 3;
Sec. 2, lots 2 and 3;
Sec. 3, lots 1 and 3;
Sec. 4, lots 2 to 6, inclusive;
Sec. 5, lots 1 and 3;
Sec. 6, lot 1 excluding unnamed slough connecting the Bonasila River and Deadman's Slough, and lot 3;
Sec. 7, lots 1, 3, and 5;
Sec. 8, lots 1, 3, and 5;
Sec. 9, lots 1, 3, 4, and 5;
Sec. 10, lots 1, 3, 4, and 6;
Sec. 16, lots 1 and 3;
Sec. 17, lots 1, 3, and 5;
Sec. 18, lots 1, 3, and 5;
Sec. 24, lot 1.
Containing approximately 7,069 acres.
T. 29 N., R. 59 W.,
Secs. 1, 2, 3, and 4;
Sec. 5, lots 1 and 3;
Sec. 6, lots 1 and 3.
Containing 3,805.73 acres.
T. 30 N., R. 59 W.,
Sec. 13, lot 1 excluding Native allotment F–13890;
Secs. 14 to 22, inclusive;
Sec. 23, lots 1, 3, and 5;
Sec. 24, lots 2 to 8, inclusive;
Sec. 25, lots 1, 3, and 4;
Sec. 26, lots 1, 3, 4, and 5;
Sec. 27, lots 1, 3, 4, and 5;
Sec. 28, lot 1, and that portion left of the left bank of the Anvik River;
Sec. 29, lots 1 and 3;
Sec. 30, lot 1;
Sec. 31, lots 2, 3, and 4;
Sec. 32, lots 1, 3, and 4;
Sec. 33, lots 1 and 3;
Sec. 34, lot 1;
Secs. 35 and 36.
Containing approximately 14,542 acres.
T. 28 N., R. 60 W.,
Sec. 1, lot 1 excluding unnamed slough connecting the Bonasila Slough and Deadman's Slough, and lot 3;
Sec. 12, lots 1 and 3;
Sec. 13, lots 1 and 3;
Sec. 14, lot 1
Containing approximately 2,318 acres.
T. 30 N., R. 60 W.,
Sec. 9, lots 1 and 3;
Secs. 13, 14, and 15;
Sec. 16, lots 1 and 3;
Sec. 17, lot 1, and lot 3 excluding Native allotment F–14993 Parcel B;
Sec. 21, lots 1 and 3;
Sec. 22, lot 1 excluding Native allotment F–13892, lots 3 and 4;
Secs. 23 and 24;
Sec. 25, lots 1 and 3;
Sec. 26, lots 1 and 3;
Sec. 27, lot 1 excluding Native allotment F–13892, and lots 3, 4, and 5;
Sec. 28, lots 1, 3, and 4;
Sec. 33, lots 1 and 3;
Sec. 34, lots 2 and 3;
Sec. 35, lots 1, 3, 4, and 5;
Sec. 36, lots 1, 3, 5, and 6.
Containing approximately 10,905 acres.
Aggregating approximately 83,174 acres.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are underlying water bodies determined to be navigable and/or tidally influenced; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the

Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14832–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheeled vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

(a) (EIN 2 D9) A one (1) acre site easement, upland of the ordinary high-water mark, in Sec. 3, T. 29 N., R. 58 W., Seward Meridian, on an island in the Yukon River. The uses allowed are those listed above for a one (1) acre site.

(b) (EIN 3 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the village of Anvik in Sec. 32, T. 30 N., R. 58 W., Seward Meridian, easterly towards the village of Shageluk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

(c) (EIN 6 C3, C5) An easement, thirty-six (36) feet in width, for an existing road from Anvik in Sec. 29, T. 30 N., R. 58 W., Seward Meridian, to the airport. The uses allowed are those listed above for a sixty (60) foot wide road easement.

(d) (EIN 16 C5) An easement for a proposed access trail, twenty-five (25) feet in width, from the right bank of the Yukon River in Sec. 3, T. 30 N., R. 58 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Public airport lease F–030761, containing approximately 130.96 acres, located in Secs. 29 and 32, T. 30 N., R. 58 W., Seward Meridian, issued to State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 211–214), as amended; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Ingalik, Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a)(1) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 83,174 acres. The remaining entitlement of approximately 8,986 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Ingalik, Incorporated, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Yukon River and its interconnecting sloughs;

the Anvik River;

the Bonasila River;

Bonasila Slough;

Peter Hamilton's Slough from its mouth in Sec. 18, T. 28 N., R. 58 W., Seward Meridian to the northerly boundary of Sec. 22, T. 29 N., R. 58 W., Seward Meridian;

Deadman's Slough from Sec. 20, T. 29 N., R. 58 W., Seward Meridian, to the west boundary of Sec. 7, T. 29 N., R. 58 W., Seward Meridian; and

The unnamed slough connecting the Bonasila River and Deadman's Slough, which begins in Sec. 1, T. 28 N., R. 60 W., Seward Meridian and flows northerly to Deadman's Slough in Sec. 18, T. 29 N., R. 58 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 22, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501

Ingalik, Incorporated, Anvik, Alaska 99558

Doyon, Limited, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-36339 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

Intent To Revise Willow Creek Land Use Plan

AGENCY: Bureau of Land Management. (California)

ACTION: Notice.

SUMMARY: The Susanville California District of the Bureau of Land Management is beginning the revision of the Land Use Plan for the Willow Creek Planning Unit.

The Willow Creek Planning Unit is located in Northeastern California north of Susanville, west of U.S. Highway 395, east of the western edge of Eagle Lake and south of the 7th Standard parallel.

The anticipated issues to be addressed in the planning process include: wilderness, competition for forage between livestock, wildlife, and other uses, range suitability economics, and future plans for the development and protection of Eagle Lake.

The technical arm of the planning process will be composed of an interdisciplinary team with expertise in: geology, soils, threatened and endangered plants, water resources, wildlife, fire management, wilderness, lands, forestry, range, wild horses, recreation, archaeology, and social-economic factors.

Public participation activities will be intense throughout the planning process. An information and education effort will be ongoing to inform the various publics of the procedures, scope, and significance of the land use planning process. Meetings with individual permittees and other interested groups will be used extensively along with the media and public meetings, to stimulate meaningful public input. The Susanville District Advisory Council will be used to help assess public attitudes and needs.

More specific information as well as copies of public comments, resources data, and other documents relative to the planning effort will be available during normal business hours from: The Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, CA 96130, Att: Mark Morse.

C. Rex Cleary,

District Manager.

[FR Doc. 80-36422 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Concession Permit; Mammoth Cave National Park; Reissuance of Notice of Intention To Negotiate a Contract

On June 6, 1980, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice was given that the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposed to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide sightseeing tour boat services for the public at Mammoth Cave National Park for a period of five (5) years from January 1, 1980. Following the issuance of this public notice, the Department of the Interior found it necessary to revise certain requirements of the proposed contract. Therefore, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on December 22, 1980, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide sightseeing tour boat facilities and services for the public at Mammoth Cave National Park, Kentucky, for a period of five (5) years from January 1, 1981, through December 31, 1985.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Office of the Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky 42259.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under a contract which was to expire by its original terms on December 31, 1979; however, the contract has been extended and is currently in force. Therefore, pursuant to the Act of October 9, 1965, as cited above, the concessioner is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Miss Green River Boat Concession, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Miss Green River Boat Concession, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Miss Green River Boat Concession, Inc., (as determined by the Secretary) is submitted, Miss Green River Boat Concession, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Miss Green River Boat Concession, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before December 22, 1980 to be considered and evaluated.

Interesed parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: November 12, 1980.

Joe Brown,

Regional Director, Southeast Region.

[FR Doc. 80-36329 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[INT FEIS 80-49]

Availability of Final Environmental Impact Statement on Allen-Warner Valley Energy System

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of Final Environmental Impact Statement on the Allen-Warner Valley Energy System proposal.

SUMMARY: The Department of the Interior's Bureau of Land Management has prepared and published a Final Environmental Impact Statement covering a proposal by Nevada Power Company, Southern California Edison Company, Pacific Gas & Electric Company, City of St. George, Utah, and Washington County (Utah) Water Conservancy District to construct and operate the Allen-Warner Valley Energy System, a coal-fired electrical generating system in Utah, Arizona, Nevada, and California to meet local and Southern California energy supply needs. Copies are available from the District Manager, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720. Written comments

should be submitted to the same address no later than December 22, 1980, for consideration in the decision of the Secretary of the Interior.

EFFECTIVE DATE:

(1) November 14, 1980—publication of the FEIS.

(2) December 22, 1980—End of comment period on the FEIS.

Note.—This is a five-day Extension of the Comment Period Specified in the FEIS.

ADDRESS: District Manager, Cedar City District Office, Bureau of Land Management P.O. Box 754, 1579 North Main Street, Cedar City, Utah 84720.

FOR FURTHER INFORMATION CONTACT: Dave Everett, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720. Telephone Number: (801) 586–2401.

SUPPLEMENTARY INFORMATION: In addition to the description and analysis of the proposed action, the FEIS analyzes five alternatives and identifies the agency preferred alternative, which includes portions of the proposal and alternatives. The FEIS also includes testimony from five public hearings on the DEIS, 130 letters of comment, and appropriate responses.

As described in the FEIS, the applicants' proposed action is to construct and operate a 500–MW powerplant and a 55,000-acre-foot reservoir in Warner Valley, Utah, and a 2,000–MW powerplant at Dry Lake, Nevada, with coal slurried to the plants from the Alton coal field in southern Utah. Analyzed alternatives to the proposed action include: (1) construct a 2,000–MW powerplant at Dry Lake, Nevada, with coal slurried from the Alton coal field; (2) construct a 250–MW powerplant and a 55,000-acre-foot reservoir at Warner Valley, Utah, with coal trucked from the Alton coal field and a 1,000–MW powerplant at Dry Lake, Nevada, with coal railed from central Utah or southwestern Wyoming; (3) construct a 2,000–MW powerplant at Dry Lake, Nevada, with coal railed from central Utah or southwestern Wyoming; (4) energy conservation and the development of alternative energy sources; and (5) no action.

In developing and analyzing the alternative for energy conservation and alternative sources, the California Public Utilities Commission developed and provided data which presented the projected energy needs and energy conservation results for California, a major recipient of the proposed energy production and transmission.

The agency preferred alternative in the FEIS is the development of the Harry Allen powerplant at Dry Lake, Nevada and associated transmission lines, at a capacity to meet State and Federal regulatory requirements, in combination with energy conservation and alternative energy resources. Under this alternative, action would be deferred on the Alton coal field and associated coal slurry pipelines until the Utah State Engineer decides on the proponents' water rights applications and the Secretary of the Interior has rendered a decision on the unsuitability petition for the Alton coal field. This alternative does not include development of the proposed powerplant at Warner Valley, Utah; associated transmission lines and proposed coal slurry pipeline; or the proposed Warner Valley reservior, as currently designed.

A limited number of copies of the FEIS are available at the Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, Telephone: (801) 586–2401. Public reading copies are available for review at this address; at public libraries in Cedar City; and St. George, Utah; Las Vegas, Nevada; Victorville, California; and the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, NW., Washington, D.C. 20240, Telephone: (202) 343-5717

Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92504, Telephone: (714) 787–1462

Las Vegas District Office, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89102, Telephone: (701) 385–6403

Utah State Office, Bureau of Land Management, University Club Building, 136 E. South Temple, Salt Lake City, Utah 84111, Telephone: (803) 524–4227

Arizona Strip District Office, Bureau of Land Management, 196 East Tabernacle, St. George, Utah 84770, Telephone: (801) 673–3545

Written comments on the FEIS should be provided to the District Manager, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah by December 22, 1980.

Dated: November 18, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 80-36341 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-84-M

[INT FES 80-48]

Availability of Final Environmental Statement

Pursuant to Section 101(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a Final Environmental Statement for PNM's Proposed Four Corners-Ambrosia-Parjarito 500 kV Transmission Project in Northwestern New Mexico.

The statement supplements the Final Environmental Statement for the Proposed Expansion of the San Juan Power Plant (INT FES 77–29).

The draft statement considers the human, economic and physical environmental affects associated with the Federal approvals of right-of-way for the construction of a 500 kV transmission line. Right-of-way for this project will require approximately 2,655 acres of Federally administered lands in Northwestern New Mexico.

Copies of the final statement are available for inspection at the following locations.

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245. Telephone: (202) 343–8248.

Bureau of Indian Affairs, Environmental Quality Services Office, Window Rock, Arizona 86515. Telephone: (602) 871–5151 Extension 5314.

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, NE, Albuquerque, New Mexico 87108. Telephone (505) 766–3565.

Single copies of the Final Environmental Statement may be obtained from the Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515.

Dated: November 14, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-36304 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: July 1, 1980.

Allied Van Lines, Inc. (MC 15735 and various subs) and Eleveld Chicago Furniture Service, Inc., (MC 87966 and

various subs) have filed a petition for waiver of Subpart B, (§§ 1057.11 and 1057.12) of the Lease and Interchange of Vehicles regulations (49 CFR Part 1057), with respect to equipment augmented between them.

Findings

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the waiver were granted in part.

It is Ordered:

1. That the petition of Allied Van Lines, Inc., and Eleveld Chicago Furniture Service, Inc. for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for paragraph (b) of Section 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time lessee acquires the equipment, and a receipt as required by paragraph (b) of § 1057.11 is furnished to the lessor, until possession is returned to the lessor or the equipment is interchanged with another authorized carrier, and that a copy of the agreement is carried on the vehicle while in lessee's possession.

2. The waiver granted in this decision does not affect the application of the leasing regulations in a lease between an owner-operator and the lessor carrier.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36346 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Application; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before December 11, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78728. By decision of October 14, 1980, on appeal issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 granted applicants' petition for reconsideration and approved the transfer to Transportation Enterprising, Inc., of Austin, TX, of Certificate MC-56810 (Sub-1) issued to Texas Motor Coaches, Inc., at Grand Praire, TX, authorizing the transportation of Passengers and their baggage, and express, newspapers, and mail in the same vehicle with passengers, over regular routes, Between Fort Worth, TX and Dallas, TX: From Fort Worth, TX over US 80 to Dallas and return over the same route. Between Fort Worth, TX and Arlington, TX: From Fort Worth over Tarrant County Road 2076 to junction TX Hwy 1, thence over TX Hwy 1 to junction Tarrant County Road 2050, thence over Tarrant County Road 2050 to junction Tarrant County Road 2013, thence over Tarrant County Road 2013 to junction Tarrant County Road 2078, thence over Tarrant County Road 2078 to junction of an undesignated road leading to Tarrant County Road 2014, thence over said undesignated road and over Tarrant County Road 2014 to junction Tarrant County Road 2013, thence over Tarrant County Road 2013 to junction Tarrant County Road 2050, thence over Tarrant County Road 2050 to junction Tarrant County Road 2009 (Arlington-Mansfield Highway), thence over Tarrant County Road 2009 to junction Tarrant County Road 2049, thence over Tarrant County Road 2049, to junction Tarrant County Road 2075, thence over Tarrant County Road 2075 and its extension (Center Street) in Arlington to Abram Street, and return over the same route. Application has been filed for temporary authority under 49 U.S.C. 11349. Applicant's representative: Mert Starnes, P.O. Box 2207, Austin, TX 78768. Transferee holds no authority.

MC-FC-78750. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to E.L.&R. Trucking Co., Inc., of Certificate MC-118882 (Sub-No. 7) issued April 26, 1979 to Joe L. Lambert authorizing the transportation of *Precast concrete products* (1) from the facilities of Centurial Products Corporation at Zanesville, OH and from the facilities of the Marietta Concrete Company at Marietta, OH to points in Indiana, Kentucky, Maryland, Michigan, North Carolina, Pennsylvania, Tennessee, Virginia, and West Virginia; and (2) from the facilities of Centurial Products Corporation at New Martinsville, Parkersburg and Waverly, WV to points in Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia. Restriction: The authority in (1) and (2) to the transportation of traffic originating at the named origins. Applicant's representative is: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526.

MC-FC-78756. By decision of October 8, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to J. F. Lomma, Inc., of South Kearney, NJ, of Certificate MC-43381, issued April 28, 1970, to Supor & Son Trucking & Rigging, Inc., authorizing the transportation over irregular routes, of (1) *Machinery*, which because of size or weight requires special equipment, between points in Essex, Bergen, Passaci, and Hudson Counties, NJ, on the one hand, and, on the other, points in New York on and south of a line

beginning at the Pennsylvania-New York State line at Hancock, NY, then over New York Highway 30 to intersection New York Highway 23, then over New York Highway 23 to the New York-Connecticut State line, and (2) *Household goods,* between New York, NY, on the one hand, and, on the other, points in New Jersey. Applicants' representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transferee holds no authority. TA lease is not sought.

MC–FC–78757. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to J. SUPOR & SON TRUCKING & RIGGING CO., INC., Harrison, New Jersey of Certificate MC–5728 issued August 21, 1980 to EDWARD F. CLARK TRUCKING CORPORATION, Harrison, New Jersey authorizing common carrier transportation over *irregular* routes: *Machinery* and *articles* requiring special handling or rigging because of size or weight.

From Bayonne, N.J., and points in New Jersey within 25 miles of Bayonne, to points in New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, and Rhode Island within 200 miles of Bayonne, with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: George A. Olsen, Atty., P.O. Box 357, Gladstone, N.J. 07934.

MC–FC–78758. By decision of September 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Boyd F. Powers and Michael J. Powers d.b.a. Powers Trucking Co. of Lock Haven, PA of Certificate MC–78687 (Sub-No. 31) issued 2/28/72 to Lott Motor Lines, Inc. of Moravia, NY authorizing the transportation of coal from points in Centre County, PA, to points in NY. Applicant's representative is: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. TA application has not been filed.

MC–FC–78776. By decision of October 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to BETHANY EXPRESS, INC., of Kansas City, MO, of Certificate MC–129802 (Sub-No. 5), issued July, 1974, to ABC CARTAGE, of Des Moines, IA, authorizing the transportation as a motor common carrier, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Des Moines and Lamoni, IA: (a) from Des Moines over Interstate Hwy 35 to junction US Hwy 69, then over US Hwy 69 to Lamoni and return over the same route, serving no intermediate points and serving Murray, IA, as an off-route point, and (b) over US Hwy 69, serving no intermediate points, and serving Murray, IA, as an off-route point; and (2) between Des Moines and Moravia, IA, serving no intermediate points: (a) from Des Moines over US Hwy 65 to junction US Hwy 34, then over US Hwy 34 to junction IA Hwy 5, then over IA Hwy 5 to Moravia and return over the same route, and (b) over IA Hwy 5. Applicants' representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Application for temporary authority has been filed in Docket MC–F–14419F.

MC–FC–78779. By decision of October 8, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to New Haven Bus Service, Inc. of New Haven, CT of Certificate No. MC–115025 (Sub-No. 4) issued August 29, 1960 to The Short Line of Connecticut, Incorporated d/b/a/ The Short Line of Milford, CT authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, and baggage of passengers in separate vehicles, between New Haven, CT, and Hartford, CT, serving all intermediate points: from New Haven over Alternate U.S. Highway 5 to North Haven, CT (also from New Haven over U.S. Hwy 5 to North Haven), thence over U.S. Hwy 5 via Wallingford, CT, to junction Alternate U.S. Hwy 5, thence over Alternate U.S. Hwy 5 via Yalesville, Tracy and Meriden, CT, to junction U.S. Hwy 5, thence over U.S. Hwy 5 to junction Alternate U.S. Hwy 5, thence over Alternate U.S. Hwy 5 via Berlin, CT, to junction U.S. Hwy 5 (also from junction U.S. Hwy 5 and Alternate U.S. Hwy 5, at Yalesville, CT, over U.S. Hwy 5 to junction Alternate U.S. Hwy 5 (Berlin-Hartford Turnpike) at Berlin, CT), thence over U.S. Hwy 5 via the Town of Newington and the Town of Wethersfield, CT, to Hartford (also from junction U.S. Hwy 5 and Alternate U.S. Hwy 5 over Alternate U.S. Hwy 5 to Hartford, and return over the same route. Applicant's representative is: Donald C. Lunt, 86 North Main Street, Wallingford, CT 06492. TA application has been filed. Transferor hold no authority.

MC–FC–78781. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Tennessee Western Corporation, doing business as Tennessee Western Express, of Certificate Nos. MC–142948, (Sub-Nos. 1, 2, 4, 6, 7F, 12F, and 13F), and Permit Nos. MC–138336 (Sub-Nos. 2, 3, 4, 5, 9, 11, and 12). The following transportation is authorized under the certificates: MC 142948 (Sub-No. 1). Irregular Routes: *New wooden furniture,* From the facilities of Davis Cabinet Company, at Nashville, Tenn., to points in Arizona, California, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: The authority granted herein is restricted to the transportation of shipments originating at the named facilities. The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR Part 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. MC 142948 (Sub-No. 2). Irregular routes: *Gum solvents, aluminum plate and sheet, plastic powder, photo-offset printing plates, and cellulose and plastic dry sponges,* From the facilities of Sumner Williams, Inc., a Division of Citiplate, Inc., at Jackson, TN, to points in Arizona, California, Colorado, Nevada, New Mexico, Utah, and Texas. Restriction: The authority granted herein is subject to the following conditions: This authority is restricted to the transportation of traffic originating at the named origin facilities and destined to points in the named destination States. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that carrier's operations conform to the provisions of section 210 of the Act. This certificate may not be joined or tacked with the carrier's other irregular-route authority. MC–142948 (Sub-No. 4). Irregular Routes: *Wooden ladders,* From the facilities of the Davidson Mfg., Corp., at Nashville, TN, to points in Kentucky, Georgia, Florida, Mississippi, Louisiana, Indiana, Ohio, Illinois, Alabama, South Carolina, North Carolina, Virginia, and West

Virginia. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic originating at the named facilities and destined to the named destination States. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure carrier's operations conform to the provisions of Section 210 of the Act. This certificate may not be joined or tacked with the carrier's other irregular-route authority. Irregular Routes: *Industrial and residential electrical heating and air conditioning equipment,* From the facilities of T. P. I. Corporation, at Johnson City, Tenn., to points in California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming. Restriction: The authority granted herein is subject to the following conditions: This authority is restricted to the transportation of shipments originating at the indicated origin. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. MC–142948 (Sub-No. 7F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electroleless nickel plating solution* (except in bulk) from the facilities of Elnic of Tennessee, Inc., at Nashville, TN, to points in the United States (except Tennessee, Alaska, and Hawaii). MC–142948 (Sub-No. 12F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cosmetics, hair and body care products,* and (2) *supplies,* used in the distribution of the commodities in (1) above, from the facilities of W. H. Feronce Co., at Philadelphia, PA, to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the named origins and destined to the named destinations. MC 142948 (Sub-No. 13F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *shoes,* (2) *supplies,* used in the manufacture and distribution of shoes, and (3) *clothing,* from the facilities of Genesco, Inc., at (a) Nashville, TN, and (b) Huntsville, AL, to points in Arizona, California, and Utah, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. The following transportation is authorized under the permits: MC 138336 (Sub-No. 3). Irregular Routes: *Automotive parts, accessories,* and *supplies,* from Nashville, Tenn., and Bowling Green, Ky., to points in Arizona, California, Colorado, Nevada, New Mexico, Oklahoma, Texas, Utah, Washington, and Oregon, with no transportation for compensation on return except as otherwise authorized. From Eugene, Oreg., and Los Angeles, Calif., to Nashville, Tenn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Holley Carburetor Division, Colt Industries Operating Corporation of Nashville, Tenn. MC 138336 (Sub-No. 4). Irregular Routes: *Fiberglass rovings, crushed or powdered glass, synthetic fiber wastes,* and *liquid plastic* (except commodities in bulk), from Nashville, Tenn., to Arlington, Tex., and Huntington Beach, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Reichhold Chemicals, Inc., of Cleveland, Ohio. MC 138336 (Sub-No. 5). Irregular Routes: *Dry cleaning and laundry equipment, materials and supplies* (except commodities in bulk, and those which by reason of their size or weight require the use of special equipment); and (2) *parts* for the commodities in (1) above (except commodities which by reason of their size or weight require the use of special equipment), from Louisville, Ky., and Cincinnati, Ohio, to points in Arizona, California, Florida, Georgia, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with W. M. Gissell Manufacturing Co., of Louisville, Ky. MC 138336 (Sub-No. 9). Irregular Routes: *Games, toys,* and *plastic articles* (except in bulk), from Henderson, Ky., to Los Angeles, San Francisco, and Oakland, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a tranpsortation service to be performed, under a continuing contract, or contracts with Kusan, Inc., of Nashville, Tenn. MC 138336 (Sub-No.11). Irregular Routes: *Glass traffic safety reflectors, traffic safety reflector spray,* and *glass sanders and buffers, from Jackson, Miss., to points in Washington, Oregon, California, Nevada, Arizona, Utah, Colorado, New Mexico, and Texas, with no transportation for compensation on return except as otherwise authorized. Graphite crucibles and plus therefor, kiln fire bricks, kiln bonding cement,* and *crude silicon carbide,* from Blasdell, N.Y., to East Liverpool, Ohio, Tyler, Tex., and points in California, Kentucky, Louisiana, Mississippi, Nevada, Oregon, Tennessee, and Washington, with no transportation for compensation on return except as otherwise authorized. *Fiberglass rovings, fiberglass cloth, crushed and powdered glass, synthetic fiber wastes,* and *liquid plastics,* From Nashville, Tenn., to points in Oregon and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to the following conditions: Said operations are restricted against the transportation of commodities in bulk, in tank vehicles. Said operations are further restricted to the transportation of service to be performed under a continuing contract, or contracts, with Ferro Corporation, of Cleveland, Ohio. MC 138336 (Sub-No. 12). Irregular Routes: *Iron and steel storage and warehouse racks and shelving,* from Springfield, Tenn., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Unarco Industries, Inc.

MC–FC–78782. By decision of October 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Progressive Transfer Co. of Permit No. MC–74311 issued April 13, 1960 to Olsen Roe Transfer Co. authorizing the transportation of general commodities (except those of unusual value, dangerous explosives, and household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and those injurious or contaminating to other lading), between Portland, OR and East Mill Plain, WA, with service authorized from the intermediate point of Vancouver, WA; also general commodities over irregular routes (with some exceptions mentioned above), between points and places within 3 miles of Portland, OR; including Portland; and milk from East Mill Plain, WA, and points and places within 10

miles thereof, to Portland, OR; and empty milk cans from Portland, OR to East Mill Plain, WA and points and places within 10 miles thereof, subject to the following conditions: Applicant's representative is: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210.

MC–FC–78785. By decision of October 22, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Beach Van & Storage of Seaside, CA, of Certificate No. MC–126768 (Sub-No. 1) and MC–126768 (Sub-No. 3) issued October 9, 1980, and May 18, 1970, respectively, to Wiley Transfer & Storage Co., of Seaside, CA, authorizing the transportation in MC–126768 (Sub-No. 1) of *Used household goods,* between points in Monterey and Santa Cruz Counties, Calif. RESTRICTION: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized. Said Operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. In MC–126788 (Sub-No. 3) of *processed fish and fish products,* from Monterey, Calif., to San Francisco, Oakland, Richmond, Alameda, Berkeley, Emeryville, Hayward, and San Jose, Calif.; and *Cannery machinery, cannery supplies, and fish livers,* from San Francisco, Oakland, Richmond, Alameda, Berkeley, Emeryville, Hayward, and San Jose, Calif., to Monterey, Calif. *Chrome ore and chrome ore concentrates,* from the mill site of Palo Alto Mining Corporation, about 7 miles southwest of San Jose, Calif., and from the mill site of J. R. Holman, about 30 miles northwest of Coalinga, Calif., to Grants Pass, Oreg., with no transportation for compensation on return except as otherwise authorized. From the mill site of Bonnell Mining Co., approximately 14 miles northwest of Coalinga, Calif., to Grants Pass, Oreg., with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: Michael S. Rubin, Attorney, 256 Montgomery Street, Fifth Floor, San Francisco, CA 94104. TA application has not been filed. Transferee presently holds no authority from the Commission.

MC–FC–78786. By decision of October 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Jayco Corp., Inc., of Shrewsbury, MA, of Permit No. MC–147035 (Sub-No. 2F) issued July 22, 1980 to Howard Leasing Inc., of Uxbridge, MA, authorizing the transportation of *meats, meat products, and meat byproducts,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and (2) materials and supplies used in the packaging of the commodities named in (a) above, between the facilities of Snider Bros. Inc., and Portion Control Meat Processing Co., Inc., at Wilkinsonville, MA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KY, KS, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC. If transferee desires to become an applicant in the transferor's pending proceedings, Docket Nos. 147035 (Sub-No. 3) and MC–147035 (Sub-No. 5), upon consummation of the transfer, an appropriate request for substitution of transferee as applicant in those proceedings may be filed. Applicant's representative is: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019, (617) 966–2093. TA application has not been filed. Tranferee presently holds no authority from the Commission.

MC–FC–78789. By decision of October 22, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Schmidt Brothers Transport, Inc., of Augusta, WI, of Permit No. MC–125140 issued May 30, 1979, to Richard B. Brunzlick, Inc., of Augusta, WI, authorizing a portion of the transportation of *dairy products* from Chippewa Falls and Westby, WI to points in Minnesota; *cheese, cottage cheese, cheese dip, butter, powdered milk* and *cream* from Chippewa Falls, Deerfield, and Westby, WI to points in Illinois; (except points in the Chicago, IL commercial zone as defined by the Commission), Indiana, Missouri and Iowa; *cottage cheese,* from Holy Cross and Bettendorf, IA to Chippewa Falls and Westby, WI; *new empty containers,* used in retail sales of cottage cheese and cheese dip, from points in Illinois (except points in the Chicago, IL commercial zone, as defined by the Commission), Indiana, Missouri and Iowa, to Chippewa Falls and Westby, WI; *orange juice,* from Chippewa Falls and Westby, WI and Columbia, MO, to points in Indiana, Missouri, Iowa and Illinois (except points in the Chicago, IL commercial zone as defined by the Commission), and from Columbia, MO to Chippewa Falls and Westby, WI; *dairy products, fruit juices,* and *fruit drinks,* from Rockford, IL to points in Illinois, Iowa, Indiana, Missouri, Wisconsin, Minnesota and points in Michigan on and south of U.S. Hwy 10; *dairy products* and *fruit juices,* from Chippewa Falls and Westby, WI to points in that part of Michigan on and south of U.S. Hwy 10. The transferee is not an ICC motor carrier and is not affiliated with any motor, rail or water carrier, express company, freight forwarder or broker. Application for temporary authority has been filed under 49 U.S.C 11349. Applicant's representative: James E. Ballenthin, Attorney, 630 Osborn Building, St. Paul, MN 55102.

MC–FC–78793. By decision of October 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Mary M. Lochmiller of Denver, CO of Certificate No. MC–146416 Sub-Nos. 4F, 6F, 7, 13F, 14F, and 15F issued July 11, 1980, August 15, 1980, July 1, 1980, and August 6, 1980 to Heritage Transportation Company of Torrance, CA, authorizing the transportation of transporting such commodities as are dealt in or used by manufacturers or distributors of sound recordings, (except commodities in bulk), (1) from Danbury, CT, New York, NY, and points in New Jersey, to Terre Haute, IN, and points in California, (2) from Terre Haute, IN, to Danbury, New York, NY, and points in New Jersey and California, and (3) from points in California, to Danbury, CT, Terre Haute, IN, New York, NY, and points in New Jersey, restricted, in (1) through (3) inclusive, to the transportation of traffic originating at or destined to the facilities of CBS, Inc.; chemicals, cleaning, scouring and washing compounds, plastic liquids and sheeting, ink, defoaming compounds, laminating machinery, parts, solvents, pallets, and containers, in vehicles equipped with mechanical refrigeration, between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA, points in Los Angeles, Orange, Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in Massachusetts, New Jersey, Virginia, North Carolina, Florida, Michigan, Indiana and Texas; drugs and toilet preparations, from Union and Kenilworth, NJ, to points in California; toilet preparations, from East Hills, NY to Los Angeles and San Francisco, CA; such merchandise, materials, equipment and supplies as are used, manufactured or dealt in by manufacturers and distributors of paper and film products, photographic materials, reproduction

and duplicating products and supplies, (1) from South Hadley and Holyoke, MA, to Chicago, IL and Oklahoma City and Tulsa, OK, to points in California, and (2) between South Hadley, Holyoke, and Woburn, MA, on the one hand, and, on the other, Tustin, CA; and dressed hogs, from La Junta, CO, and York, NE, to points in California. Applicant's representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. TA application has been filed. Transferee holds no authority.

MC–FC–78794. By decision of October 22, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Carpenter Trucking Company, Inc. of Charlotte, NC of Certificate of Registration No. MC-96825 (Sub-No. 1) issued June 19, 1964, to Lucy W. Carpenter, Executrix of the Estate of Zeb Vance Carpenter, d/b/a Carpenter Trucking Company of Charlotte, NC evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Common Carrier Certificate No. C–508 dated October 19, 1953 issued by North Carolina Utilities Commission. The operating rights are as follows: special equipment except unmanufactured tobacco and accessories, over irregular routes from Charlotte to all points and places within a 100-mile radius thereof, and from Charlotte to Raleigh and electric transformers, electric motors, parts materials and equipment for use with the same, from Charlotte to points and places within a radius of 200 miles of Charlotte, and use motors, transformers, parts and materials from points and places in said destination territory to Charlotte. Applicant's representative is: Robert B. Blythe, 3250 NCNB Plaza, Charlotte, NC 28280. TA application has not been filed. Transferee holds no authority.

MC–FC–78795. By decision of October 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to J and R Towing, Inc. of Certificate No. MC–116906 (Sub-No. 1) issued October 27, 1978 to Lonnie Bramlette, Jr. d/b/a J and R Towing authorizing the transportation of (1) Automobiles, trucks, truck tractors, and buses for replacement purposes only, in wrecker-type service only, from Chicago, IL to points in IN, MI, MO, and WI; (2) Disabled or wrecked automobiles, buses, trucks, tractors and semitrailers from points in IN, MI, MO, and WI to Chicago, IL; and (3) Tractors and trailers, and disabled tractors, trucks, automobiles, buses and trailers in a wrecker-type service, between points in IL, IA, IN, MI and WI (except points in Milwaukee County, WI). Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601.

MC–FC–78796. By decision of October 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Murty Bros. Agency, Inc. of Certificate No. MC–107947 issued April 12, 1977 to Murty Van, Inc. authorizing the transportation over irregular routes of *show horses and race horses and equipment and supplies* used in the care and display between points in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina and the District of Columbia. *Livestock,* other than ordinary livestock, and in the same vehicle with such livestock, *mascots, gaun animals, personal effects of attendants,* trainers and exhibits and supplies and equipment used in the care and exhibition between points in the above specified states on the one hand, and on the other, points in Alabama, Arkansas Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio and Tennessee. Between points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio and Tennessee. Applicant's representative: Eugene T. Liipfert, Esquire, Attorney at Law, 1660 L Street N.W., Washington, D.C. 20036.

MC–FC–78800. By decision of October 14, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Transportation & Consolidated Centers, Inc., of Harrisburg, PA, of Certificate No. MC–35377 (Sub-No. 1 issued to Merchants Delivery, Inc., of Harrisburg, PA, authorizing the transportation of general commodities (ususal exceptions), from Harrisburg, PA, to points in a defined portion of PA, restricted to a small package delivery service. Applicant's representative is: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transferee holds no authority. TA lease is not sought.

MC–FC–78802. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to ARTHUR W. HUPPERT, d/b/a/ ACTION REFRIGERATED TRUCKING, an individual, of Bloomington, IL, of Certificate No. MC–123361 (Sub-No. 4) issued July 11, 1977 to CANTWELL MOTOR SERVICE, INC., of Fairview Heights, IL, authorizing the transportation by irregular routes of *meats, meat products and meat by-products,* and *articles distributed by meat packinghouses,* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), Between Bloomington, IL, on the one hand, and, on the other, points in Vigo County, IN, and points in that part of Illinois on and south of U.S. Highway 30, and on and north of Interstate Highway 70. Applicants' representative is: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Transferee presently holds no authority from the Commission.

MC–FC–78803. By decision of November 6, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the lease to Bandera Trucking, Inc., for a period of 20 years of Certificate of Registration No. MC–96801 (Sub-No. 1) issued December 7, 1979, to Bandera Drilling Co., Inc., doing business as Bandera Trucking Co. evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate No. 5383 dated August 14, 1978 issued by The Railroad Commission of Texas. Applicant's representative is: Albert G. Walker, Jr., 401 Republic National Bank Building, 3301 Northland Drive, Austin, TX 78731.

MC–FC–78808. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Big Wheels Transport and Leasing Ltd. Kensington, P.E.I., Canada COB 1 MO of Certificate No. MC–136270 and (Subs-Nos. 1, 3 and 4) issued March 12, 1974, November 19, 1976, and July 9, 1976 respectively to Donald B. Hirtle Transport, Limited Blockhouse, Lunnenburg County, Nova Scotia, Canada authorizing the transportation of Irregular Routes: (1) *Processed fish* when moving in mixed loads with the commodities in (2) below, (2) *fish* otherwise exempt from economic regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with processed fish, From ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and from Bar Harbor and Portland, Maine, to points in New York, and to Boston and Gloucester, Mass., Jersey City, N.J., and Philadelphia and Pittsburgh, Pa., with no transportation

for compensation on return except as otherwise authorized. (3) *Bananas,* From Albany, N.Y., to ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments moving in foreign commerce. Irregular Routes: (1) *Processed fish* (except in bulk), when moving in mixed loads with the commodities in (2) below, (2) *fish,* the transportation of which is otherwise exempt from economic regulation under the provision of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with processed fish, From ports of entry on the United States-Canada Boundary located at Calais and Houlton, Maine, and from Bar Harbor and Portland, Maine, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. (3) *Materials, supplies and equipment* used in the operation and maintenance of fishing boats and fish processing plants (except commodities in bulk and lumber), From points in Massachusetts, to ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine, with no transportation for compensation on return except as otherwise authorized. Restriction: Service at Bar Harbor and Portland, Maine, is restricted to the transportation of traffic having a prior or subsequent movement by water. Irregular Routes: (1) *Bananas,* and (2) *commodities* otherwise exempt from economic regulation pursuant to section 203(a)(6) of the Interstate Commerce Act, in mixed loads with bananas, From Chelsea, Mass., to ports of entry on the United States-Canada Boundary line located at or near Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine. Applicant's representative is: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043 (617) 749-6500.

MC-FC-78813. By decision of October 20, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to G.W. Bigham, L.C. Bigham, and Melvin Bigham, a partnership d/b/a W.K. Bigham and Sons, of Lubbock, TX, of Certificate No. MC-109006 and all subs thereunder issued to the above partners and C.L. Bigham (deceased) authorizing the transportation of wood buildings, complete, between points in Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Utah, and Nebraska on and south of Interstate Hwy 80. G.W. Bigham and Melvin Bigham must sign a statement adopting the application and submit it to the Commission, and a representative of the estate of C.L. Bigham must adopt the application in the name of transferor. This condition must be complied with prior to the issuance of the effective notice. Applicant's representative is: James M. Gerdeman, 2321 50th St., Lubbock, TX 79412. TA lease is not sought.

MC-FC-78814. By decision of Oct. 20, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to The Fortune Corporation of Seattle, WA, of (1) Certificate No. MC-136798 (Sub-No. 1) Issued October 20, 1980, authorizing the transportation, over irregular routes, of *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 Seattle, WA, and Skykomish, WA, serving the intermediate point of Woodinville, and those between Seattle and Woodinville, restricted to traffic moving to or from points beyond Woodinville; Monroe, Wa, restricted to traffic moving to or from points other than Seattle; and all other intermediate points unrestricted; and the off-route points of Scenic, Index, Roosevelt, Woodruff, Maltby, Cathcart, Murphy's Corner, Wintermute's Corner, and those within 3 miles of the above-specified routes: from Seattle over WA Hwy 2 to Woodinville, WA, then over WA Hwy 1A to Snohomish, WA, and then over Alternate U.S. Hwy 10 to Grotto, WA, then over unnumbered highway to Skykomish and return over the same route: Between Everett, WA, and Snohomish, WA: from Everett over Alternate U.S. Hwy 10 to Snohomish, and return over the same route; RESTRICTION: Direct service is not authorized between Everett and Seattle. Between Woodinville, WA, and Monroe, WA, Serving the intermediate points of Duvall, WA, from Woodinville over WA Hwy 2-C to Duvall, WA, and then over WA Hwy 15-B to Monroe, and return over the same route. Between Skykomish, WA, and a ski lodge located at the summit of Stevens Pass, 12 miles east of Scenic, WA, serving no intermediate points: from Skykomish over WA Hwy 15 to the ski lodge, and return over the same route. Serving those points in Snohomish County, WA, within 15 miles of WA Hwy 15 (U.S.. Hwy 2) between Snohomish, WA, and the summit of Stevens Pass, 12 miles east of Scenic, WA, as off-route points in connection with carrier's authorized regular route operations to and from Snohomish, WA; and (3) the authority transferred by decision served April 4, 1980 in MC-F-14257F which authorized the transportation, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading) between Seattle, WA, and Tacoma, WA, serving no intermediate points; from Seattle over WA Hwy 99 (formerly U.S. Hwy 99) to Tacoma and return over the same route. The above authority is currently held by Maust Transfer Company of Seattle, WA. Applicants' representative is: Jack R. Davis; 1100 IBM Building, Seattle, WA 98101.

MC-FC-78817. By decision of October 22, 1980 issued under 49 CFR Part 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to E. STIEWING, INC. of Certificate No. MC-94040 issued August 14, 1958 to ALBERT C. STIEWING dba E. STIEWING & SON authorizing the transportation of *Household Goods,* as defined by the Commission, between Milford, CT, and points within 15 miles thereof, on the one hand, and, on the other, points in New Hampshire, New Jersey, New York, Massachusetts, and Rhode Island. Applicant's representative is: William J. Meuser, Esq., 86 Cherry St., P.O. Box 507, Milford, CT 06460.

MC-FC-78819. By decision of October 24, 1980, issued under 49 U.S.C. 10926, 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to The George Rimes Trucking Company, Inc. of Chardon, OH of Certificate No. MC-5914 and a portion of Certificate of Registration No. MC-5914 (Sub-No. 9) issued May 22, 1959 and June 10, 1965, to William G. Rimes, Mildred Gaylor, Florence Davis, Dorothy C. Orient and Leota Hildinger, A Partnership, d/b/a/ George Rimes of Chardon, OH evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Common Carrier Certificates Nos. 364-

R, 365–I and 1933–I dated May 18, 1962, July 31, 1962 and February 10, 1959 issued by the Public Utilities Commission of Ohio authorizing livestock, household goods between Cleveland, OH, and Thompson, OH, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from Cleveland over U.S. Hwy 322 to junction OH Hwy 44, thence over OH Hwy 44 to Chardon, OH, thence over U.S. Hwy 6 to Hambden, OH, thence over OH Hwy 166 to junction OH Hwy 528, and thence over OH Hwy 528 to Thomp, and return over the same route; between the junction of U.S. Hwy 322 and OH Hwy 44 and the junction of OH Hwys 528 and 166, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from the junction of U.S. Highway 322 and OH Hwy 44 over U.S. Hwy 322 to Huntsburg, OH, and thence over OH Hwy 528 to the junction of OH Hwy 523 and 166, and return over the same route; between the junction of U.S. Hwy 322 and OH Hwy 44 and Burton, OH, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from the junction of U.S. Hwy 322 and OH Hwy 44 over OH Hwy 44 to junction OH Hwy 87, and thence over OH Hwy 87 to Burton, and return over the same route. Property over irregular routes, from and to points and places in Chardon, Hambden, Thompson, Montville, Huntsburg, Claridon, Munson, Chester, Newbury and Burton Townships, Geauga County, OH; also from and to Gates Mills Village, Cuyahoga County, OH. Also transportation of household goods, office furniture and fixtures, uncrated, and fertilizer and feed, upon and over irregular routes from and to points and places in Middlefield Township, Geauga County, OH. Applicant's representative is: David A. Turano, 100 East Broad St., Columbus, OH 43215. TA Application has not been filed. Transferee holds no authority.

MC–FC–78820. By decision of October 22, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to G&W Cartage, Inc., of Chardon, OH, of a portion of Certificate of Registration No. MC–5914 (Sub-No. 9) issued June 10, 1965, to William G. Rimes, Mildred Gaylord, Florence Davis, Dorothy C. Orient, and Leota Hildinger, d/b/a George Rimes Trucking Company, of Chardon, OH, evidencing a right to engage in transportation in interstate commerce corresponding in scope to certificate No. 1933–I dated February 10, 1959 issued by the Public Utilities Commission of Ohio, as follows: property, from and to points in Chardon, Hambden, Thompson, Montville, Huntsburg, Claridon, Munson, Chester, Newbury and Burton Townships, Geauga County, OH; also from and to Gates Mills Village, Cuyahoga County, OH; household goods, office furniture and fixtures, uncrated, and fertilizer and feed, from and to points in Middlefield Township, Geauga County, OH. Applicant's representative is: David A. Turano, 100 E. Broad St., Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC–FC–78821. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to ILLINANA DISTRIBUTION SERVICE, INC., of Crete, IL, of Certificates Nos. MC–44932 and MC–44932 (Sub-Nos. 5, 11, 13, 14, 15, and 18), issued to W. W. YOUNG & SON, INC., of Lynwood, IL, authorizing the transportation of the following: (a) MC–44932—Irregular routes: *General commodities,* (except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the Chicago, IL, Commercial Zone, as defined by the Commission in 1 M.C.C. 673; *Brick, stone, terra-cotta, marble and slate haydite, cement and haydite blocks, glazed tile,* and *forms* used or useful in the manufacture of these products, between points in Cook, Lake, DuPage, and Will Counties, IL, on the one hand, and, on the other, points in Wisconsin within 100 miles of State and Madison Streets, Chicago, IL; *Brick, stone, terra-cotta, tile, cement, marble, cinders, haydite, plywood, debries, excavating, cement and haydite machinery,* and *materials* use in the erection thereof, (i) between points in IL within 150 miles of Chicago, IL, including Chicago, and (ii) between points in Lake, and Porter Counties, IN. (b) Sub. No. 5—Irregular Routes: *Pig iron* and *ferrous metals,* loose and not in containers, in dump vehicles, from Chicago, IL, to points in Lake, Porter, LaPorte, St. Joseph, Elkhart, Kosciusko, Marshall, Rulton, Starke, Pulaski, Jasper, Newton, Benton, Warren, Tippecanoe, White, Cass, Carroll, Miami, and Wabash Counties, IN, Ottawa, Allegan, Van Buren, Kalamazoo, Berrien, Cass, and St. Joseph Counties, MI, and Dodge, Washington, Ozaukee, Milwaukee, Wakesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI; *Coal,* in bulk, in dump vehicles, from Chicago, IL, to points in Berrien County, MI, and Lake, Porter, LaPorte, and St. Joseph Counties, IN; *Meat and bone scraps, tankage, dried blood,* and *salt,* in bulk, in dump vehicles, from Chicago, IL, to points in Lake, Porte, LaPorter, St. Joseph, Elkhart, Kosciusko, Marshall, Fulton, Starke, Pulaski, Jasper, Newton, Benton, Warren, Tippecanoe, White, Cass, Carroll, Miami and Wabash Counties, IN, and Dodge, Washington, Ozaukee, Milwaukee, Waukesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI; *Dry, synthetic resins,* in bulk, in vehicles equipped with loading or unloading devices, from Whiting, IN, to Ottawa, IL; *Animal and poultry feed,* in bulk, in bump vehicles, from Hammond, IN, to points in Dodge, Washington, Ozaukee, Milwaukee, Waukesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI, and Ottawa, Allegan, Van Buren, Kalamazoo, Berrien, Cass, and St. Joseph Counties, MI; *Salt,* in bulk, in dump vehicles, from Milwaukee, WI, to Chicago, IL. (c) Sub. No. 11—Irregular Routes; *Dry fertilizer,* in bulk, in dump, hopper or tank vehicles, from the site of the Calumet Industrial District Terminal at Riverdale, IL, to points in Indiana north of Vermillion, Parke, Putnam, Hendricks, Marion, Hancock, Henry and Wayne Counties including points in the counties named other than Vermillion, and points in Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegan Counties, MI, restricted against joining or tacking with carrier's other operating authority to provide a through service to or from points other than those above; *Pig iron* and *ferrous metals,* loose, in dump vehicles, from Chicago, IL, to points in Muskegon, Kent, Branch and Calhoun Counties, MI, and points in La Grange, Steuben, Noble, De Kalb, Whitley, Allen, Adams, Wells, Huntington, Jay, Blackford, Grant, Howard, Clinton, Tipton, Fountain, Montgomery, Boone, Hamilton, Madison, Delaware, Randolph, Parke, Putnam, Hendricks, Marion, Hancock, Henry, and Wayne Counties, IN; *Pig iron,* loose, in dump vehicles, from Joliet, IL, to points in Lake, Porter, LaPorte, St. Joseph, Elkhart, Kosciuski, Marshall, Fulton,

Starke, Pulaski, Jasper, Newton, Benton, Warren Tippecanoe, White, Cass, Carroll, Miami, Wabash, Huntington, Wells, Adams, Whitley, Allen, De Kalb, Noble and La Grange Counties, IN, and Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Scrap iron, scrap steel* and *non-ferrous scrap,* loose, in dump vehicles, between Chicago and Lemont, IL, on the one hand, and, on the other, points in Indiana north of Vermillion, Parke, Putnam, Hendricks, Marion, Hancock, Henry and Wayne Counties including points in the counties named other than Vermillion, and points in Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Animal and poultry feed,* in bulk, in dump vehicles, from Riverdale, IL, to points in Lake, Porter, LaPorte, Newton, Jasper, Benton, Warren, Fountain, Parke, Putnam, Montgomery, Tippecanoe, White, Carroll, Clinton, Boone, Hendricks, Marion, Hamilton, Tipton, Howard, Grant, Madison, Hancock, Henry, Delaware, Blackford, Wells, Adams, Jay, Randolph and Wayne Counties, IN. (d) Sub. No. 13—Irregular Routes: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in hopper or tank type vehicles, and those requiring special equipment), between the plant site of the Bethlehem Steel Corporation location at Burns Harbor, Porter County, IN, and Chicago, IL, restricted to the transportation of shipments originating at, or destined to the plant site of the Bethlehem Steel Corporation, located at Burns Harbor, Porter County, IN. (e) Sub. No. 14—Irregular Routes: *Steel articles* and *such materials* as are used or useful on highway construction projects (except cement, rock, sand, and gravel), from Chicago, IL, to points in Boone, Cook, Dekalb, DuPage, Grundy, Kane, Kankakee, Kendall, Dale, LaSalle, McHenry, and Will Counties, IL; *Iron and steel articles,* as described by the Commission in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from Portage, IN, to points in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, LaSalle, McHenry, and Will Counties, IL. (f) Sub. No. 15—Irregular Routes: *Iron and steel articles,* from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, to points in WI, and Materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in WI, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, restricted to the transporation of traffic originating at or destined to the named origins and destinations, and said operations are restricted againsst the transportation of commodities in bulk. (g) Sub. No. 18—Irregular routes: *Scrap iron and steel,* in bulk, in dump vehicles, between points in Kenosha, Brown, Fond du Lac, Eau Claire, Waupaca, Racine, Walworth, Rock, Green, Dane, and Dodge Counties, WI, on the one hand, and, on the other, Chicago, Peoria, and Danville, IL Applicants' representative: William H. Shawn, Suite 501, 1730 M Street, N.W. Washington, DC 20036. Transferee holds no permanent ICC authority. A temporary authority application has been filed.

MC–FC–78824. By decision of October 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132, Review Board Number 5 approved the transfer to Paul Wantye, of Louisville, KY, of Certificate No. MC–109106 (Sub-No. 1) issued April 30, 1965 to A. O. Fenwick, of Sellersburg, IN, authorizing the transportation of *plumbing fixtures* and *supplies* and *fittings* used in connection therewith, from Kohler, Wis., to points in Florida, except Jacksonville, *bathtubs, lavatories, sinks, closet combinations,* and *faucets and fittings* used in connection therewith, from Kohler, Wis., to Fort Lauderdale, Miami, and West Palm Beach, Fla., *fresh fruits and vegetables,* from points in Florida to points in Illinois, Indiana, Missouri, Ohio, Wisconsin, and Michigan. Applicant's representative is: Rudy Yessin, 113 W. Main St., Frankfort, KY 40601. Transferee holds no authority. TA lease is not sought.

MC–FC–78826. By decision of October 30, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to C & L Trucking, Inc., of Cedar Rapids, IA, of a portion of Certificate No. MC–136646 (Sub-No. 1), issued July 18, 1975, to Le Mars Transport, Inc., of Le Mars, IA, authorizing the transportation of *anhydrous ammonia,* in bulk, in tank vehicles, from Algona, and Garner, Iowa, to points in Minnesota, from the facilities of Apple River Chemical Company, Division of St. Paul Ammonia Products, Inc., near East Dubuque, IL, to points in Iowa, Minnesota, and Wisconsin. Applicant's representative is: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. TA lease is not sought. Transferee hold authority under MC–142716.

MC–FC–78829. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to AQUA GULF CORPORTION, of Bayonne, NJ, of Certificate No. MC–44324 issued October 30, 1967 to F&F TRUCKING CO., INC., of Brooklyn, NY, authorizing the transportation of *general commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Union, Passaic, Essex, Hudson, and Bergen Counties, NJ, on the one hand, and, on the other, New York, NY. Applicant's representative is: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528.

MC–FC–78830. By decision of November 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to GENERAL FREIGHTS, INC., of Hagerstown, Maryland of Certificate 123710 and MC–123710 (Sub-1) issued 10/14/80 to Alexandria Trucking Co., Inc., of Winchester, VA authorizing the transportation of:

MC 123710. Regular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, Between Front Royal, VA, and Washington, DC, serving the intermediate and off-route points within two miles of Front Royal, VA, and the off-route points of Sperryville, Washington, Flint Hill, and Riverton, VA: From Front Royal over VA Highway 55 to junction U.S. Highway 211, near Gainesville, VA, thence over U.S. Highway 211 to Washington, DC, and return over the same route. Irregular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Front Royal, VA, on the one hand, and, on the other, points in that part of Virginia within 25 miles of Front Royal.

MC 123710 (Sub-1). Irregular routes: *Building materials, coal, coke, wood, pitch, tar, paint, machinery, contractors' tools and equipment,* between Alexandria, VA, and points in VA within 10 miles of Alexandria, on the one hand, and, on the other, Washington, DC, and points in MD

within 40 miles of Washington, DC. *Cement,* From Washington, DC, to points in MD and VA within 25 miles of Washington, with no transportation for compensation on return except as otherwise authorized. *Structural steel,* from Phoenixville, PA, to Alexandria, VA with no transportation for compensation on return except as otherwise authorized. Applicant's representatives: Charles E. Creager and Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740.

MC–FC–78842. By decision of November 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to STEWART COOK, JR., d.b.a. FRANK SALERNO of Permit MC 134545 issued 1/5/71, to Frank Salerno authorizing the transportation over irregular routes of *fiber drums, wooden kegs,* and *wooden reels,* from Hampton and Phillipsburg, NJ, to Claymont and Wilmington, DE, Baltimore and Elkton, MD, New Rochelle and New York, NY, and Denver, Elizabethtown, Lancaster, Middletown, Pottsville, Reading, and York, PA, with no transportation for compensation on return except as otherwise authorized, subject to the following conditions: limited to a transportation service to be performed under a continuing contract, or contracts with Greif Bros. Corporation of Hampton, NJ. Applicants' representative is: Chester A. Reybitz, Esquire, 429 E. Broad Street, P.O. Box 1445, Bethlehem, PA 18018.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36351 Filed 11–20–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Finance Application; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before December 11, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

By decision of October 1, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to RICHARD D. DiFRISCHIA doing business as RICHARDS TRUCKING LINE of Permit MC 128735 (lead and Sub-4) issued September 28, 1967 to Alvin E. Golnick authorizing the transportation of: (1) *fabricated metal products,* from the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia; (2) *materials used in the manufacture of fabricated metal products,* from points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia to the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA: (3) *Fabricated metal products* from the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Mississippi, Alabama, South Carolina, Georgia, and Florida; and (4) *Materials used in the manufacture of fabricated metal products,* from points in the destination states named in (3) above the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA. Restriction: The operations authorized are limited to transportation performed under continuing contract or contracts, with Ellwood City Iron & Wire Co., of Ellwood City, PA. Applicant's representative is: William M. Ponella, Attorney at Law, NC Professional Building, Suite 205, New Castle, PA 16101.

MC–FC–78766. By decision of October 2, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to LACY'S EXPRESS, INC. of Pedricktown, NJ, of Certificate MC 1769 issued December 4, 1961, to Ruhl Transportation Co., of Pedricktown, NJ, authorizing the transportation over irregular routes of *felt base carpeting,* from Wilmington, DE, to Baltimore, MD, with no transportation for compensation on return except as otherwise authorized, also from Salem, NJ, to points in CT, DE, MD, MA, NJ, NY, PA, and RI; and *materials and supplies* used or useful in the manufacture of felt base carpeting, from points in CT, DE, MD, ME, NJ, NY, PA, and RI, to Salem, NJ; *linoleum paste,* from Wilmington, DE, to points in CT, RI, and ME, and points in that part of NY on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 36 (formerly New York Highway 21) to Hornell, NY, thence along New York Highway 21 to Lake Ontario, except points in the New York, NY, Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized; also from Salem, NJ, to points in NC, SC, VA, and DC and *such of the immediately above-specified commodities as are refused or damaged,* from points in NC, SC, VA, and the District of Columbia, to Salem, NJ; *lumber* and *piling,* from Newport and Wilmington, DE, Baltimore and Elkton, MD, and Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *fire clay* and *fire brick,* from Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *fertilizer,* from Baltimore, MD, to points in Cumberland and Salem Counties, NJ, with no transportation for compensation on return except as otherwise

authorized, also from Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *oil and grease*, in containers, from Claymount, DE, to Salem, NJ; and *empty oil containers* from Salem, NJ, to Claymont, DE; *blue slate powder*, from Whiteford, MD, to Gloucester City, NJ, with no transportation for compensation on return except as otherwise authorized, and from Baltimore, MD, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *machinery* and *machine parts*, from Baltimore, MD, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *glass containers*, from Salem, NJ, to Baltimore, MD, Chester, Marcus Hook, and Philadelphia, PA, and New York, NY, with no transportation for compensation on return except as otherwise authorized; *composition wall covering*, from Wilmington, DE, to Baltimore, MD, and points in CT, RI, MA, points in that part of NY and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 36 (formerly New York Highway 21) to Hornell, NY, thence along New York Highway 21 to Lake Ontario, except points in the New York, NY, Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36352 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the 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 November 21, 1980.*

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 simplifiying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions of limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 373

Decided: November 10, 1980.

By the Commission Review Board Number 2, Members Chandler, Eaton and Liberman. Member Liberman not participating.

MC 106674 (Sub-484), filed May 8, 1980, previously noticed in the Federal Register of July 31, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *particle board, fiber board, and wood,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Towanda, PA, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MI, IL, IN, OH, KY, TN, WV, MD, DE, VA, NC, SC, GA, and DC.

Note.—This republication corrects the territorial description.

Volume No 374

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 111594 (Sub-99F), filed June 23, 1980, previously published in the Federal Register of July 31, 1980. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Portage, WI and St. Paul, MN: from Portage over U.S. Hwy 16 to junction U.S. Hwy 12, then over U.S. Hwy 12 to junction U.S. Hwy 10, then over U.S. Hwy 10 to St. Paul and return over the same routes; (2) between La Crosse and Gordon, WI over U.S. Hwy 53, (3) between Ellsworth and Cable, WI, over U.S. Hwy 63; (4) between Marshfield and Prentice, WI, over WI Hwy 13; (5) between Prentice, WI and St. Paul, MN: over U.S. Hwy 8; (6) between Tomah and La Crosse, WI, over U.S. Hwy 16; and (7) between Wausau, WI, and junction U.S. Hwy 12 and WI Hwy 29, over WI Hwy 29, serving all intermediate points in WI and all points in Burnett, Washburn, Sawyer, Polk, Barron, Rusk, St. Croix, Dunn, Chippewa, Taylor, Pierce, Pepin, Eau Claire, Clark, Buffalo, Trempealeau, Jackson, La Crosse, and Monroe Counties, WI as off-route points; (8) between Atlanta, GA, and North August, SC: From Atlanta over Int. Hwy 20 to junction SC Hwy 230, then over SC Hwy 230 to North Augusta and return over the same routes, serving no intermediate points, for operating convenience only. NOTE: Applicant proposes to tack the sought authority with its existing regular and irregular routes. The purpose of this republication is to correctly state the territorial description.

MC 143154 (Sub-8F), filed April 28, 1980, previously noticed in the Federal Register of July 10, 1980. Applicant: ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. A & S TRUCKING 1455 N. Reserve, Missoula, MT 59801. Representative: Charles A. Murray, Jr., 207A Behner Bldg., 2822 Third Ave., North Billings, MT 59101. Transporting *malt beverages,* in containers, from points in OR, to points in WA, ID, NV, CA, AZ, UT, CO, WY, MT, NM, and those points in OR requiring movement across the WA State line.

Note.—This republication corrects the territorial description.

Volume No 375

Decided: November 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 121142 (Sub-20F), filed August 17, 1979, published in the Federal Register, issue of October 1, 1980, republished as corrected, this issue. Applicant: J & G EXPRESS, INC., 489 Julienne St., P.O. Box 1637, Jackson, MS 39205. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Over *regular routes,* transporting * * * (2) *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), (a) between Memphis, TN, and Jackson, MS, from Memphis over Interstate Hwy 55, and U.S. Hwy 51 to Jackson, MS, and return over the same route, serving all points in MS, on, west and north of a line beginning at the AR–TN State line, and extending along the TN–MS State line to Interstate Hwy 55, then along Interstate Hwy 55 to junction MS Hwy 8, then along MS Hwy 8 to the MS–AR State line as off-route points, (b) between Memphis, TN, and Leland MS, over U.S. Hwy 61, and return over the same route, serving all intermediate points, (c) between Jackson and Canton, MS, from Jackson, over U.S. Hwy 52 and Interstate Hwy 55 to Canton, and return over the same route, serving all intermediate points, and serving points in Madison County, MS, as off-route points * * *. The purpose of this republication is to correct the territorial description in part (2)(a) and (2)(c). The remainder of this publication remains as previously published.

Volume No. 376

Decided: November 13, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 66143 (Sub-3F), filed July 13, 1979, published in the Federal Register, issue of September 23, 1980, and republished, as corrected, this issue. Applicant: JJL DISTRIBUTION SYSTEMS, INC., 557 Brook Street, Garden City, NY 11530. Representative: Arthur J. Piken, 95–25 Queens Boulevard, Rego Park, NY 11374. Transporting *sound recordings, sound recording jackets,* and *disc and tapes,* between points in Burlington County, NJ, on the one hand, and, on the other, New York, NY, and points in Suffolk County, NY. The purpose of this republication is to correct the commodity and territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36353 Filed 11-20-80; 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 application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.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 on or before January 5, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–071

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 115931 (Sub-187F), filed October 27, 1980. Applicant: BEE LINE TRANSPORTATION, P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *general commodities*, between Saint Maries, Elk River, and Spirit Lake, ID, Clearwater, Ringling, Roundup, Melstone, Grassrange, Winifred, and Agawam, MT, Faith, Isabel, Timber Lake, Trail City, Murdo, Mackenzie, Presho, Chamberlain, Kimball, White Lake, Plankinton, Mount Vernon, Platte, Geddes, Lake Andes, Wagner, Avon, Tyndall, Napa, Scotland, Tripp, Parkston, Woonsocket, Wessington Springs, Alpena, Mellette, Frederick, Pollock, Herreid, Madra, Ureka, Hosmer, Britton, Sisseton, Wilmot, Colman, Flandreau, Sioux Falls Junction, Dell Rapids, Renner, Madison, Alexandria, Emery, Bridgewater, Marion Junction, Freeman, Menno, Canton, Hudson and Vermillion, SD, and Othello, Royal City, Beverly, Park Junction, National, Port Angeles, Discovery Junction, Port Townsend, Hanford, Malden, Metaline Falls, Marcellus, Tiflis and Morton, WA, 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 150080 (Sub-1F), filed October 31, 1980. Applicant: CONTROLLED CARRIERS, INC., P.O. Box 367, Exton, PA 19341. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. 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 151040 (Sub-1F), filed October 31, 1980. Applicant: RTL HOLDINGS, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *general commodities* (except used hold goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152561F, filed November 4, 1980. Applicant: MAIL DISPATCH, INC., P.O. Box 12616, Seattle, WA 98111. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. 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 152590F, filed November 7, 1980. Applicant: N.D.S., INC., 666 Summer Street, Boston, MA 02210. Representative: Robert J. Gallagher, 100 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. As a *broker* to arrange for the transportation of *general commodities*, (except household goods), between points in the U.S.

Volume No. OP1–074

Decided: November 10, 1980

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 11220 (Sub-224F), filed October 28, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP3–074

Decided: November 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Liberman not participating.

MC 152304 (Sub-1F), filed October 22, 1980. Applicant: MARK MARGOLIS, d.b.a. ROAD MARK, Suite 600, 612 North Michigan Avenue, Chicago, IL 60611. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036. As a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152234F, filed October 15, 1980. Applicant: BANCROFT & SONS TRANSPORTATION, INC., 306 Nunez, Grand Prairie, TX 75051. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 145905 (Sub-3F), filed October 28, 1980. Applicant: Z. H. HURT ENTERPRISES, INC., d.b.a. MEX–CAL TRUCKLINE, 5070 Glenview Place, Bonita, CA 92002. Representative: William H. Shawn, Suite 501, 1780 M. St., NW., Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36354 Filed 11–20–80; 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 rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 5, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-070

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 200 (Sub-506F), filed October 28, 1980. Applicant RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative H. Lynn Davis (same address as applicant). Transporting *empty steel shipping cylinders for oxygen and gases*, between points in Garfield County, OK, on the one hand, and, on the other, points in CA, restricted to traffic originating at or destined to the facilities used by Chesterfield Cylinder Co., its affiliates, suppliers, or vendors.

MC 200 (Sub-508F), filed October 27, 1980. Applicant RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 Pershing Road, Kansas City, MO 64141. Representative H. Lynn Davis (same address as applicant). Transporting *insulated copper wire*, between points in Los Angeles and San Bernardino Counties, CA, on the one hand, and, on the other, points in Denver County, CO, and Providence County, RI, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 200 (Sub-509F), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture of foodstuffs, between Fresno, CA, Jacksonville, IL, Sherman, TX, Mayville, WI, and Humboldt, TN, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities used by Anderson Clayton Foods, its affiliates, suppliers, or vendors.

MC 730 (Sub-517F), filed October 31, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: Roland Rice, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S.

MC 29910 (Sub-301F), filed October 27, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Transporting *building materials*, between Austin, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 35320 (Sub-620F), filed October 27, 1980. Applicant: T.I.M.E.-DC, INC., 2598 74th St., PO Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Wichita Falls, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 38170 (Sub-32F), filed October 28, 1980. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, MI 48146. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment), between Detroit, MI, on the one hand, and, on the other, points in IN, OH, those in MI south of MI Hwy 46, and those in PA, on and west of U.S. Hwy 19. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request of Certificate MC 38170 Sub-30F.

MC 57880 (Sub-24F), filed October 31, 1980. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, Monte Vista, CO 81144. Representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. Transporting *fabricated metal products* and *primary metal products*, as described in Items (34) and (33) of the Standard Transportation Commodity Code Tariff, between points in CO, on the one hand, and, on the other, AZ, NM, UT, and WY.

MC 106920 (Sub-114F), filed October 28, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transportation *foodstuffs, and materials, equipment, and supplies* used in the manfacture and distribution of foodstuffs (except commodities in bulk), between the facilities used by Gebhart Mexican Foods, Co., at San Antonio, TX., on the one hand, and, on the other, those points in the U.S., in and east of MT, WY, CO, and NM.

MC 115311 (Sub-403F), filed October 27, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transportation *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between those points in the U.S., in and east of MN, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities used by Johns-Manville Sales Corporation.

MC 115651 (Sub-93F), filed November 3, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 71105. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paint, in bulk, in tank vehicles, between those points in the U.S., in an

east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilites of Valspar Corp.

MC 115730 (Sub-86F), filed October 20, 1980. Applicant: THE MICKOW CORP., 531 S.W. Sixth St., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting *metal products*, between points in Poweshiek and Page Counties, IA, Navarro County, TX, Laurens County, GA, Yolo County, CA, and Crawford and Ford Counties, KS, on the one hand, and, on the other, points in the U.S.

MC 115730 (Sub-87E), filed October 31, 1980. Applicant: THE MICKOW CORP., 531 S.W. Sixth St., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting (1) *rubber products, plastic products, clay products, concrete products, glass products, stone products, metal products (except ordnance, and machinery)*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Jefferson and Talladega Counties, AL, Riverside County, CA, Wyandotte County, KS, Boone County, MO, Mahaska County, IA, Cook and DuPage Counties, IL, Boone County, KY, Coshocton and Tuscarawas Counties, OH, and Upshur County, WV, on the one hand, and, on the other, points in the U.S.

MC 119441 (Sub-54F), filed October 27, 1980. Applicant: BAKER HI-WAY EXPRESS, INC., Box 506, 555 Commercial Pkwy., Dover, OH 446. Representative: Richard H. Brandon, Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *lumber*, between those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 119741 (Sub-283F), filed October 20, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting (1) *washers and dryers*, and (2) *parts and attachments* for the commodities in (1), and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in Greene and Hamilton Counties, IA, on the one hand, and, on the other, points in the U.S.

MC 121081 (Sub-6F), filed October 31, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28313. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, PA 24168. Transporting (1) *textile mill products* as described in Item 22 of the Standard Transportation Commodity Code Tarriff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Lenoir County, NC, on the one hand, and, on the other, points in Fairfield County, SC, and Jackson and Morgan Counties, AL.

MC 135760 (Sub-23F), filed October 27, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *foodstuffs* between points in the U.S., under continuing contract(s) with Globe Products Company, Inc., of Clifton, NJ.

MC 139330 (Sub-7F), filed October 31, 1980. Applicant: F.V.T., INC., 106 Howard Dr., Williamstown Junction, NJ 08094. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Transporting (1) *insulation*, and (2) *materials, and equipment and supplies* used in the manufacture and distribution of insulation, between points in Fairfax County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144910 (Sub-18F) filed, October 29, 1980. Applicant: TY PRUITT TRUCKING, INC., 6717 Quad Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW, Washington, DC 20005. Transporting (1) *such commodities* as are dealt in by grocery stores and food business houses, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above, between those points in the U.S., in and east of NM, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Maryland Cup Corporation.

MC 149111 (Sub-1F) filed, October 27, 1980. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 39th St., Pittsburgh, PA 15201. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *agricultural chemicals and fertilizer* (except commodities in bulk), and (2) *applicators* for the commodities in (1), between points in the U.S., under continuing contract(s) with Chevron Chemical Company of Perth Amboy, NJ.

MC 149210 (Sub-2F) filed, October 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, (same address as applicant). Transporting *meats, meat products, meat byproducts and articles* distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 152020 (Sub-1F) filed, October 28, 1980. Applicant: ALBERT G. DRIEBE, R.D. No. 1, Box 1229, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1)(a) *foodstuffs* from points in Cumberland County, NJ, to points in CA, CO, FL, GA, ID, KS, MO, OK, OR, TX, UT, and WA, and (b) *materials and supplies* used in the manufacture and distribution of foodstuffs, in the reverse direction, and (2)(a) *cartons, boxes, fillers, dividers and sheets* from points in Philadelphia and Montgomery Counties, PA, to points in the U.S. (except AK and HI), and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (a), in the reverse direction.

MC 150800 (Sub-1F) filed, October 30, 1980. Applicant: BAY'S TEXACO SERVICE & SUPPLY CO., INC., 116 E. Osage St., Pacific, MO 63069. Representative: Miles E. Bay (same address as applicant). Transporting (1) *hardboard, particle board, plywood, and pulpboard*, and (2) *materials and supplies* used in the manufacture of commodities in (1) above, from points in MO, to points in AR, IL, IA, KY, MS, LA, GA, and TN, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 151801 (Sub-1F), filed October 27, 1980., Applicant: VEEN CARTAGE, INC., 9146 S. Kolmar Ave., Oak Lawn, IL 60453. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with Ogden Steel Company of Chicago, IL.

MC 1521160 (Sub-1F), filed October 27, 1980. Applicant: SERVICE CO. OF MASS., INC., 116 Mount Vernon St., Lawrence, MA 01843. Representative: Kathleen Curtin (same address as applicant). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the

Commission), between points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, ME, LA, MA, MD, MI, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI and WV.

MC 152241 (Sub-1F), filed October 21, 1980. Applicant: LANCASTER EXPRESS, INC., 2314 Norman Rd., P.O. Box 4771, Lancaster, PA 17604. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), Cleveland, OH, Lugoff, SC, McConnelsville and Gansevoort, NY, Port Elizabeth and Dorchester, NJ, and points in Allegheny, Cumberland, Berks, Lancaster, Lebanon and York Counties, PA, on the one hand, and, on the other, points in the U.S.

MC 152510F, filed October 21, 1980. Applicant: HENRY PRITCHARD, INC., R. R. #5, Geneseo, IL 61254. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL. Transporting *petroleum products, residual oil, solvents, thinners, and caustics,* between points in Henry County, IL, on the one hand, and, on the other, points in IN, IA, KY, MO, MN, and WI.

MC 152530 (Sub-1F), filed October 27, 1980. Applicant: GALAXY TRANSPORT, INC., P.O. Box 613, Belleville, MI 48111. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and used motor vehicles), between points in Lenawee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI, on the one hand, and, on the other, Louisville, KY, St. Louis, MO, and points in IL, IN, OH, and PA, restricted to traffic originating at or destined to the facilities of the Ford Motor Company.

Volume No. OP1–072

Decided: November 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 200 (Sub-505F), filed October 21, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: Lynn Davis (same address as applicant). Transporting *corrugated bracing, bulkheads, blocks, and panels,* between the facilities of Down River Forest Products, at or near Waco, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and OK.

MC 200 (Sub-507F), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *nonhousehold synthetic organic detergents, fatty acids, triglycerides, metallic stearates, and wax,* between points in Tarrant County, TX, on the one hand, and, on the other, points in Washington County, KY, Vermillion County, IL, Poweshiek County, IA, Aiken County, SC, and Harris, Brazoria, and Galveston Counties, TX.

MC 11220 (Sub-223F), filed October 22, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLenmore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *such commodities* as are dealt in by food business houses, between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OH, OK, PA, TN, TX, WV, and WI.

MC 52460 (Sub-290F), filed October 26, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *pneumatic tires* and *accessories* for pneumatic tires, from points in AR, LA, and TX, to points in OK.

MC 106920 (Sub-113F), filed October 23, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *dairy products and egg nog,* from Adell, Fond du Lac, and Milwaukee, WI, to those points in the U.S. in and east of MI, IN, IL, MO, AR and TX.

MC 108340 (Sub-37F), filed October 27, 1980. Applicant: HANEY TRUCK LINE, A Corporation, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in OR, WA, ID, CA, and MT.

MC 111231 (Sub-319F), filed October 20, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe and fittings,* and (2) *accessories* for the commodities in (1) above, between the facilities of Marathon Plastics, Inc., at or near Litchfield, IL, on the one hand, and, on the other, points in the U.S. (except AK, AL, AR, FL, GA, HI, IN, IA, KS, KY, MS, MI, MN, MO, NE, NC, ND, OH, OK, SC, SD, TN, VA, and WI).

MC 116300 (Sub-85F), filed October 27, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *steel,* between points in AL, LA, MS, and TN, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MI, MS, OK, TN, TX, and VA.

MC 116810 (Sub-10F), filed October 21, 1980. Applicant: BAIR TRANSPORT, INC., P.O. Box 6, Riverside, NJ 08075. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), between Downingtown and Philadelphia, PA, New York, NY, and points in CT, DE, MD, MA, NJ, and RI, and DC.

MC 119741 (Sub-284F), filed October 21, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *pneumatic rubber tires, molded and extruded rubber parts, reinforced rubber hose, tread rubber,* and *tubes,* from the facilities of Cooper Tire & Rubber Company, in Hancock and Wood Counties, OH, to points in IA, KS, MN, MO, NE, ND, SD, and WI.

MC 128290 (Sub-13F), filed October 27, 1980. Applicant: EARL HINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in MD, on the one hand, and, on the other, points in PA, DE, MD, NJ, MA, and VA.

MC 140060 (Sub-3F), filed October 27, 1980. Applicant: JOE REI, d.b.a. JOE REI TRUCKING CO. P.O. Box 57, Blue Mound, KS 66010. Representative: Clyde N. Christey, KS Credit Union Bldg. 1010 Tyler, Suite 110L Topeka, KS 66612. Transporting (1) *furniture parts,* and *accessories for furniture parts, 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 U.S., under continuing contract(s)

with Leggett & Platt, Incorporated, of Carthage, MO.

MC 143531 (Sub-5F), filed October 28, 1980. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *pipe,* and *materials and supplies* used in the manufacture of pipe, between points in the U.S., under continuing contract(s) with Powder River Enterprises, Inc., of Provo, UT.

MC 151291 (Sub-1F), filed October 21, 1980. Applicant: J. M. WILLIAMS, 800 West 28th St. Long Beach, CA 90806. Representative: J. M. Williams (same address as applicant). Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operations, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between Wilmington, Williams, Bakersfield, and Port Hueneme, CA, Houston and Galena Park, TX, Oklahoma City and Tulsa, OK, Garden City, LA, Casper, Rock Springs, Lovell, and Greenriver, WY, and Invite and Battle Mountain, NV, on the one hand, and, on the other, points in CA, TX, OR, OK, LA, UT, CO, and WY.

MC 151551 (Sub-1F), filed October 27, 1980. Applicant: GARDNER TRUCKING COMPANY, INC. 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (same address as applicant). Transporting (1) *forest products, lumber product, wood products, clay products, concrete products, glass products, stone products, metal products, machinery, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (a) between points in AL, GA, FL, SC, NC, TN, AR, MS, LA, and TX, and (b) between points in AL, GA, FL, SC, NC, TN, AR, MS, LA, and TX, 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.

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Decided: November 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-510F), filed November 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *chemicals* (except in bulk), between Ashtabula, OH, and Hopkinton, MA.

MC 14781 (Sub-13F), filed November 4, 1980. Applicant: GOTTRY CORPORATION, P.O. Box H—Westgate Branch, Rochester, NY 14624. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *commodities, the transportation of which, because of size or weight, require the use of special equipment, self-propelled articles each weighing 15,000 pounds or more, construction equipment, materials and supplies, building materials, machinery, machine parts and machine tools,* between points in the U.S., under continuing contract(s) with Higgins Erectors & Haulers, Inc., of Buffalo, N.Y.

MC 42011 (Sub-68F), filed October 24, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (4)(a) *commodities,* the transportation of which because of size or weight requires the use of special equipment, and (b) *related parts, materials and supplies* when their transportation is incidental to the transportation of commodities which because of size or weight require special equipment, (5) *self-propelled articles* each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, (6) *metal articles,* and (7) *construction materials, equipment, and supplies,* between points in AR, CO, IA, IL, IN, KS, LA, MN, MO, MS, MT, ND, NE, NM, OK, SD, TX, UT, WI, and WY.

MC 59120 (Sub-43F), filed November 3, 1980. Applicant: EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, PA 15201. Representative: Ted Kanoza (same address as applicant). Transporting (1) *glass containers,* and (2) *materials and supplies* used in the manufacture of glass containers, between Mt. Vernon and Shelby, OH, on the one hand, and, on the other, E. Hartford, CT, Northampton, MA, Roanoke, VA, Niles, IL, Elwood, IN, Holland, MI, Lexington, KY, Maryland Heights, MO, and Racine, WI.

MC 59150 (Sub-184F), filed October 31, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Transporting (1) *building materials, gypsum and gypsum products, paper and paper products, plastic products, and chemicals,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) between points in the U.S., restricted to traffic originating at or destined to the facilities or Georgia-Pacific Corporation.

MC 106920 (Sub-115F), filed November 6, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *frozen foods,* from Bedford Heights, OH, to those points in the U.S. in and east of WI, IA, NE, KS, OK, AR, and LA.

MC 115181 (Sub-45F), filed November 3, 1980. Applicant: HAROLD M. FELTY, INC., R.D. #1, Box 148, Pine Grove, PA 17963. Representative: Lee E. High, 541 Penn Street, Reading, PA 19601. Transporting *metallic waste material,* in bulk, in dump vehicles, from points in Decatur Township, Mifflin County, PA, to Old Bridge, NJ.

MC 121821 (Sub-11F), filed October 31, 1980. Applicant: TENNESSEE MOTOR LINES, INC., 402 Maple Ave., Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA and Loudon, TN, from Atlanta over Interstate Hwy 75 to junction TN Hwy 72, then over TN Hwy 72 to Loudon, TN, and return over the same route, serving all intermediate points between Cleveland and Loudon, TN, and serving points in Bradley,

McMinn, and Monroe Counties, TN, as off-route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 127651 (Sub-66F), filed October 31, 1980. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *lumber products, wood products, and building materials,* between points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, WA, WI and WY.

MC 135070 (Sub-172F), filed November 6, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *metal articles,* between points in Denver County, CO, Polk County, FL, Jasper County, MO, and Washington County, TX, on the one hand, and, on the other, points in AZ, CA, CO, CT, FL, IA, IL, IN, KS, MA, MD, MO, NC, NE, NJ, NY, OH, OR, PA, TX, UT, VA, WA, and WI.

MC 138741 (Sub-116F), filed November 3, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *gypsum, gypsum products and building materials,* (except commodities in bulk) and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) (except commodities in bulk), between points in AL, AR, CO, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI and DC, restricted to traffic originating at or destined to the facilities of Georgia-Pacific Corporation. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its certificate in MC–138741 Sub-106.

MC 139360 (Sub-13F), filed October 27, 1980. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53403. Representative: William D. Brejcha, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and distrubutors of processed foods, between points in the U.S., under continuing contract(s) with Fremont draut, Inc., of Freemont, OH, Frank Pure Food Company, of Franksville, WI, Sharp Canning, Inc., of Bluffton, IN, and Milford Canning of Milford, IL.

MC 142181 (Sub-20F), filed October 27, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by catalogue showroom stores, between points in the U.S., under continuing contract(s) with Service Merchandise Company, Inc., of Nashville, TN.

MC 143471 (Sub-30F), filed October 31, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *gypsum, gypsum products, and building materials,* between points in the U.S., under continuing contract(s) with Gold Bond Building Products, Division of National Gypsum Company of Charlotte, NC.

MC 143511 (Sub-6F), filed November 6, 1980. Applicant: HARDINGER TRANSFER CO., INC., 1314 West Eighteenth St., P.O. Box 521, Erie, PA 16512. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Chautauqua County, NY, and Erie, Crawford, Warren, Venango, Mercer, and Lawrence Counties, PA, 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.

MC 145610 (Sub-8F), filed October 28, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 765 Lake Mirror Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St. NE., Atlanta, GA 30309. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in AL, GA, NC, and SC.

MC 148370 (Sub-13F), filed October 31, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting *rubber thread,* and *materials and supplies* used in the manufacture of rubber thread, between points in the U.S., under continuing contract(s) with the Globe Manufacturing Corporation, of Fall River, MA.

MC 148370 (Sub-14F), filed October 31, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *plastic articles and iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with ITT Grinnell Corporation of Providence, RI.

MC 148370 (Sub-19F), filed October 21, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials* and *supplies* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Preco Corporation of West Springfield, MA.

MC 148930 (Sub-3F), filed November 5, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Dr., Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49403. Transporting *such commodities* as are dealt in by home products distrubutors (except commodities in bulk), between points in the U.S., under continuing contract(s) with Shaklee Corporation, of Emeryville, CA.

MC 150221 (Sub-6F), filed November 3, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting (1) *textiles and textile products,* and *materials, equipment, and supplies* used in the manufacture and distribution of textiles and textile products (except commodities in bulk), and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) in (1) with Hoechst Fibers Industries, Division of American Hoechst Corporation, of Spartanburg, SC, and (2) with American Hoescht Corporation, Industrial Chemical Division, of Charlotte, NC.

MC 150400 (Sub-1F), filed November 3, 1980. Applicant: AZTEC TRUCKING, INC., 9555 South Baltimore, Chicago, IL 60617. Representative: Richard A. Kerwin, 180 North LaSalle St., Chicago, IL 60601. Transporting (1) *iron and steel articles* and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles, between Lake County, IN, on the one hand, and, on the other, points in IA, IL, KY, MI, MO, OH, and WI.

MC 151641 (Sub-1F), filed October 15, 1980. Applicant: WILLIAM E. JOHNSON, d.b.a., WILLIAM E.

JOHNSON TRUCKING COMPANY, 11211 Sherman Ave., Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *meats, cheese and bananas,* between points in Dallas County, TX, on the one hand, and, on the other, points in NM, and OK, and (2) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in Dallas County, TX, on the one hand, and, on the other Liberal and Arkansas City, KS, Lincoln, NE, and Pueblo, CO.

MC 151751 (Sub-1F), filed October 20, 1980. Applicant: DOYAL W. BRUNSON, d.b.a. BRUNSON, P.O. Box 489, Fort Dodge Rd., Dodge City, KS 67801. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Hyplains Dressed Beef, Inc. at or near Dodge City, KS, to points in the U.S. (except AK, HI, and KS).

MC 152070 (Sub-1F), filed November 6, 1980. Applicant: RICKY SHAW & SONS TRANSPORTATION COMPANY, INC., 500 Bennington Ave., Kansas City, MO 64125. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *waste or scrap material; viz. scrap or waste materials not identified by industry producing,* and *hazardous materials,* as described in Items 40 and 49 of the Standard Transportation Commodity Code Tariff, respectively, between points in the U.S., under continuing contract(s) with Shaw & Sons Enviro Pro Ecology Unit VII, Inc., of Kansas City, MO.

MC 152511F, filed October 28, 1980. Applicant: PATRICIA WENGLIKOWSKI d.b.a. W. RENTAL COMPANY, 5404 Hilltop Dr., Bay City, MI 48706. Representative: Mark Wenglikowski, 621 14th St., Bay City, MI 48706. Transporting (1) *chemicals* between points in Bay, Saginaw, and Midland Counties, MI, on the one hand, and, on the other, points in Will and Cook Counties, IL, (2) *frozen foods and vegetables* between points in Bay and Saginaw Counties, MI, on the one hand, and, on the other points in DE, MD, NY, and points in Cook County, IL and Lake and Porter Counties, IN, (3) *metal products* between points in Bay and Tuscola Counties, MI, on the one hand, and, on the other, points in AL, KY, OH, and TN, and points in Cook County, IL, and Lake and Porter Counties, IN, and (4)(a) *flour* (except in bulk), and (b) *bakery goods,* and (c) *supplies* used in the manufacture of flour and bakery goods, between points in Lake and Cook Counties, IL, on the one hand, and, on the other, points in MI (except the Upper Peninsula of MI).

Volume No. OP2–093

Decided, November 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 1403(Sub-6F) (Correction) filed October 2, 1980, published in the **Federal Register,** issue of October 2, 1980, and republished, as corrected, this issue. Applicant: CENTRAL TRANSFER COMPANY, a CORPORATION, 100 Kellog St., Jersey City, NJ. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY, NJ, and PA, on the one hand, and, on the other, points in NY, NJ, PA, DE, MD, VA, CT, and DC. Note: The purpose of this republication is to correct the territory description.

MC 89723 (Sub-73F) (Correction) filed October 1, 1980, published in the **Federal Register,** issue of October 20, 1980, and republished, as corrected, this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, MO 63103. Representative: Michael Thompson, (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AR, MO, KS, CO, OK, NE, LA, TX, IL, TN, MS, and NM, on the one hand, and, on the other, points in AR, KS, MO, CO, TX, NE, IA, IL, IN, KY, TN, AL, MS, OK, NM, AZ, OH, and LA, restricted to traffic having a prior or subsequent movement by rail. The purpose of the republication is to correct the terrtitorial description.

Volume No. OP2–094

Decided November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 121742 (Sub-2F), filed October 9, 1980. Applicant: MISTLETOE TEX-PACK EXPRESS, INC., 702 E. 40th St., Lubbock, TX 79404. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, and junction U.S. Hwy 82 and TX Farm Road 143, east of Guthrie: from Dallas over TX Hwy 183 to junction TX Hwy 121, then over TX Hwy 121 to junction TX Hwy 199, then over TX Hwy 199 to junction U.S. Hwy 82, and return over the same route, (2) between Dallas, TX, and junction TX Hwys 121 and 183: from Dallas over TX Hwy 114 to junction TX Hwy 121, then over TX Hwy 121 to junction TX Hwy 183, and return over the same route, (3) between Fort Worth, TX, and junction U.S. Hwys 283 and 82: from Fort Worth over U.S. Hwy 80, to junction U.S. Hwy 180, then over U.S. Hwy 180 to junction U.S. Hwy 183, then over U.S. Hwy 183, and junction U.S. Hwy 283, then over U.S. Hwy 283, to junction U.S. Hwy 82, and return over the same route, (4) between Dallas, TX, and junction Interstate Hwy 20 and U.S. Hwy 80, over Interstate Hwy 20, (5) between Dallas and Spur, TX: from Dallas over U.S. Hwy 80 to junction TX Hwy 6, then over TX Hwy 6 to junction U.S. Hwy 380, then over U.S. Hwy 380 to junction TX Hwy 70, then over TX Hwy 70 to Spur, and return over the same route, (6) between Quanah and Crowell, TX, over TX Hwy 6, (7) between Spur and Turkey, TX, over TX Hwy 70, (8) between Vernon and Earth, TX, over U.S. Hwy 70, (9) between Dickens and Lubbock, TX, over U.S. Hwy 82, (10) between Turkey and Tulia, TX, over TX Hwy 86, (11) between Lubbock and Amarillo, TX, over U.S. Hwy 87, (12) between Springlake and Hereford, TX, over U.S. Hwy 385, (13) between Floydada and Ralls, TX, over U.S. Hwy 62, (14) between junction TX Farm Road 54 and U.S. Hwy 62, and, junction TX Farm Road 54 and U.S. Hwy 87, over TX Farm Road 54, (15) between Childress and Paducah, TX, over U.S. Hwy 83, serving all intermediate points, restricted against (1) traffic originating at and destined to Amarillo, Childress, Vernon, Quanah, Fort Worth, and Dallas, and (2) service to intermediate points between Fort Worth and Dallas, TX, (16) between junction TX Hwy 222, and U.S. Hwy 82 and Dickens, TX, over U.S. Hwy 82, (17) between Silverton and Floydada, TX, over TX Hwy 207, (18) between junction U.S. Hwy 70 and TX Farm Road 179, and, junction TX Farm Road 37 and U.S. Hwy 87: from junction

U.S. Hwy 70 and TX Farm Road 179 over TX Farm Road 179 to junction TX Farm Road 37, then over TX Farm Road 37 to junction U.S. Hwy 87, and return over the same route, (19) between junction TX Hwy 70 and TX Farm Road 97, and, junction TX Farm Roads 97 and 599, over TX Farm Road 97, (20) between junction U.S. Hwy 82 and TX Farm Road 651, and, junction TX Farm Road 261 and TX Hwy 70: from junction U.S. Hwy 82 and TX Farm Road 651 over TX Farm Road 651 to junction TX Farm Roads 651 and 261, then over TX Farm Road 261 to junction TX Hwy 70, and return over the same route, (21) between Spade and Olton, TX, over TX Farm Road 168, (22) between Spade, TX and junction TX Farm Road 54 and U.S. Hwy 87, over TX Farm Road 54, (23) between junction TX Farm Roads 168 and 37 and Fieldton, TX, over TX Farm Road 37, (24) between junction U.S. Hwy 70 and TX Farm Road 28, and, junction TX Farm Road 28 and U.S. Hwy 82, over TX Farm Road 28, (25) serving no intermediate points in routes (1) through (5) above except for purposes of joinder and interline only, and (26) serving all intermediate points in routes (6) through (24) above, restricted against articles weighing in the aggregate more than 100 pounds, moving in shipments weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location in any one day. Condition: Prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC 121742, issued July 17, 1975.

MC 124692 (Sub-344F), filed October 27, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *refractories, refractory products, insulation, insulating materials,* and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of the commodities in (1) above, between points in Grundy County, IL, Calloway and Audrain Counties, MO, Darke and Jackson Counties, OH, Pueblo County, CO, Mayes County, OK, Hopkins County, TX, and Perry County, ID, on the one hand, and, on the other, points in the U.S.

MC 125952 (Sub-29F), filed October 28, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango, S. W., P.O. Box 99307, Tacoma, WA 98499. Representative: Daniel W. Baker, 100 Pine St, #2550, San Francisco, CA 94111. Transporting (1) *paper, paper articles, packaging materials,* (2) *such commodities* as are dealt in by manufacturers, distributors or convertors of cellulose materials and cellulose products, and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Portland, OR.

MC 128652 (Sub-20F), filed October 28, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Ave., South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff between points in the U.S. under continuing contract(s) with (1) The Toro Company of Minneapolis, MN, (2) American Excelsior Company of Minneapolis, MN, (3) Munsingwear, Inc., of Minneapolis, MN, (4) Branch Manufacturing Company of North Branch, MN, (5) Capp Homes Company of Minneapolis, MN, and (6) King Foods Company of South St. Paul, MN.

MC 150363 (Sub-1F), filed October 21, 1980. Applicant: ROBERT HARDESTY AND MICHAEL HARDESTY, a partnership, d.b.a. HARDESTY EXCAVATING, R.R. 1, Chana, IL 61015. Representative: Mary Hardesty (same as applicant). Transporting lumber, *railroad ties, slab wood and sawdust* between points in IL, WI, IA and IN.

MC 152473F, filed October 20, 1980. Applicant: JAMES CHANCEY, R.R. #3, Carbondale, IL 62901. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *lumber or wood products,* except furniture, as described in Item 24 to the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Koppers Company, Inc.

Volume No. OP2-095

Decided: November 12, 1980

By the Commission Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2153 (Sub-50F) filed November 3, 1980. Applicant: MIDWEST MOTOR EXPRESS, INC., 5015 E. Main Street, Bismarck, ND 58501. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Over *regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williston, ND, and Glendive, MT, serving all immediate points, from Williston over U.S. Hwy 85 to junction ND Hwy 200, then over ND Hwy 200 to the MT-ND State line, then over MT Hwy 200 to junction MT Hwy 16, then over MT Hwy 16 to Glendive, and return over the same route.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 58672 (Sub-4F) filed October 28, 1980. Applicant: DUGAS EXPRESS COMPANY, a corporation, 102 Knox St., Lewiston, ME 04240. Representative: Normand F. Doyon (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, NH, and MA.

MC 84212 (Sub-41F) filed October 20, 1980. Applicant: DORN'S TRANSPORTATION, INC., Railroad Ave. Extension, Albany, NY 12205. Representative: Irving Klein, 371-Seventh Ave., New York, NY 10001. Transporting *industrial oils and greases, hydraulic fluids, and metal cutting compounds,* between points in Lehigh County, PA, on the one hand, and on the other, points in Essex, Warren, St. Lawrence, Clinton, Washington, and Saratoga Counties, NY

MC 107012 (Sub-599F) filed October 23, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *general commodities,* from Seattle, WA to points in the U.S. (except AK and HI). Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 128343 (Sub-64F) filed November 3, 1980. Applicant: C-LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Transporting *general commodities (except household goods as defined by the Commission, and classes A and B explosives),* between points in U.S., under continuing contract(s) with The Okonite Company of Ramsey, N.J.

MC 128343 (Sub-65F), filed November 3, 1980. Applicant: C-LINE, INC., 340

Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, D.C. 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S. under continuing contract(s) with Victor Electric Wire & Cable Corp. of West Warwick, RI.

MC 134183 (Sub-14F), filed October 31, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Wasington, DC 20001. Transporting (1) *such commodities* as is dealt in or used by grocery and food business houses, and (2) *materials, equipment and supplies* used in manufacture and sale of the commodities in (1) above, between points in the U.S., under a continuing contract(s) with Lever Brothers Company, of New York, NY.

MC 139193 (Sub-119F), filed October 27, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrance D. Jones, 2033 K St., NW, Washington, DC 20006. Transporting *petroleum and petroleum products* in packages, vehicle body sealer, sound deadening products, and synthetic luburicant, between points in the U.S., under continuing contract(s) with Pennzoil Products Company of Houston, TX.

MC 145332 (Sub-4F), filed October 26, 1980. Applicant: STEPHEN HROBUCHNAK, d.b.a. TRANS-CONTINENTAL REFRIGERATED LINES, Route 502, P.O.B. 1456, Scranton, PA 18501. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff (except commodities in bulk), between Milton, PA, on the one hand, and, on the other, Los Angeles, Oakland, San Francisco, and Vacaville, CA, Portland, OR, and Seattle, WA.

MC 147323 (Sub-11F), filed October 26, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Transporting (1) *primary metal products;* inc. galvanized; except coating or other allied processing, (2) *fabricated metal products;* except ordnance, and (3) *machinery;* except electrical, as described in Items 33, 34, and 35, respectively, in the Standard Transportation Commodity Code Tariff, between points in Wayne and Oakland Counties, MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151132 (Sub-1F), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., 805 West 2400 South, Salt Lake City, UT 84119. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by drug stores, discount houses, and grocery stores and food business houses between the facilities of Forest City Products, Inc., at (a) Clearfield, UT, and (b) Cleveland OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151672 (Sub-1F), filed October 21, 1980. Applicant: RIGHT–WAY TRANSPORT, INC., 1133 A Avenue, Freeman Field, Seymour, IN 47274. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *petroleum and petroleum products,* between points in Jefferson County, KY, on the one hand, and, on the other, points in IN.

MC 151673 (Sub-1F), filed October 20, 1980. Applicant: J & R CARRIERS, INC., Route 6, Box 17, Vicksburg, MS 39180. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), and (2) *buildings,* mounted on wheeled undercarriages, between points in AL, LA, GA, MS, TN, TX, and FL.

MC 151822 (Sub-1F), filed October 27, 1980. Applicant: FREIGHT DIRECT, INC., P.O. Box 10707, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting (1) *display fixtures, counters, showcases* and (2) *windows, barrels, crates or boxes,* between Atlanta, GA, and points in the U.S., (except AK and HI).

MC 152283 (Sub-1F), filed October 22, 1980. Applicant: P. H. TRUCKING, INC., 6003 Guion Road, Indianapolis, IN 46268. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *such commodities* as are dealt in or used by retail department stores, 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 Paul Harris Stores, Inc., of Indianapolis, IN.

MC 152492F, filed October 16, 1980. Applicant: ALEXANDER'S TRAVEL SERVICE, INC., d.b.a. CAMINO TOURS, 31 West 34th Street, New York, NY 10001. Representative: Joel I. Papernik, 330 Madison Avenue, New York, NY 10017. As a *broker,* at Bronx, Queens, Kings, New York, Westchester and Nassau Counties, NY, Bergen, Monmouth and Sussex Counties, NJ, and New Haven County, CT, in arranging for the transportation, by motor vehicle, of passengers and their baggage in special, charter and round-trip operations, between points in NY, NJ, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152493F, filed October 28, 1980. Applicant: WALTER S. DRZEWIECKI, d.b.a. GAYLORD FEED & GRAIN COMPANY, 403 West Mitchell St., Gaylord, MI 49735. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with H & H Tube and Manufacturing Co., of Southfield, MI. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

Volume No. OP3–071

Decided: November 10, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones—Member Carleton not participating.

MC 2095 (Sub-33F), filed October 20, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *gypsum and gypsum products,* (2) *building materials* (except those in (1) and (4)), (3) *paper and paper products,* (4) *chemicals and plastic products,* and (5) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) through (4) above, between all points in the U.S. (except AK and HI).

MC 123334 (Sub-7F), filed September 29, 1980. Applicant: KENNETH HUDSON, INC., d.b.a. HUDSON BUS LINES, 280 Bartlett St., Lewiston, ME 04240. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Androscoggin, Franklin, and Oxford Counties, ME, and extending to points in the U.S. (except HI).

Note.—Applicant also filed concurrently an application for control approval under Ex Parte No. 55 (Sub-No. 46) which has been

determined as unnecessary and will not be processed.

MC 128905 (Sub-8F), filed October 27, 1980. Applicant: ZERKLE TRUCKING COMPANY, a corporation, 2400 Eighth Ave., P.O. Box 5628, Huntington, WV 25703. Representative: N. W. Bowen, Jr. (same address as applicant). Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with Heck's, Incorporated, of Nitro, WV.

MC 133384 (Sub-4F), filed October 22, 1980. Applicant: BARBERTON RECON CENTER, INC., 5075 Wooster Rd., Barberton, OH 44203. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017. Transporting *motor vehicles*, in truckaway service, from the facilities of the Ford Motor Company, at or near Dearborn, MI, to points in the U.S.

MC 133805 (Sub-62F), filed October 21, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting (1) *meats, meat products and meat by-products*, and *articles distributed by meat-packinghouses*, (2) *foodstuffs* (except those embraced in (1) above), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under contiuing contract(s) with Swift Indpendent Packing Co., a division of Swift & Company, of Chicago, IL.

MC 134105 (Sub-547F), filed October 20, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Jack H. Blanshan, Suite 200, 205 W. Toughy Ave., Park Ridge, IL 60068. Transporting (1) *lighting fixtures*, (2) *parts and accessories* for lighting fixtures, and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Lithonia Lighting Company, at (a) Cochran and Conyers, GA, and (b) Crawfordsville, IN, 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 140635 (Sub-30F), filed September 19, 1980. Applicant: ADAMS LINES, INC., 1619 N Street, Omaha, NE 68107. Representative: John L. Hornung (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, clases A and B explosives, and commodities in bulk), between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certifiates issued under Docket No. MC-140635 and the subs thereunder, at applicant's written request.

Note.—Applicant has no shipper support but relies on traffic studies to support a grant of authority.

MC 152464 (Sub-1F), filed September 30, 1980. Applicant: PYRAMID T.O.F.C. SERVICES, INC., Rural Route 2, Box 235A, Carterville, IL 62918. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), Between points in Alexander, Bond, Calhoun, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Logan, Macon, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Sangamon, Saline, Scott, Shelby, Union, Wabash, Washington, Wayne, White, and Williamson Counties, IL; Butler, Bollinger, Cape Girardeau, Carter, Crawford, Dent, Dunklin, Franklin, Gasconade, Howell, Iron, Jefferson, Lincoln, Madison, Maries, Mississippi, Montgomery, New Madrid, Oregon, Osage, Pemiscot, Perry, Pike, Phelps, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Texas, Warren, Washington, and Wayne Counties, MO; Clay, Craighead, Greene, Lawrence, Mississippi, and Randolph Counties, AR; Benton, Carroll, Cheatham, Chester, Crockette, Davidson, Decatur, Dickson, Dyer, Gibson, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Madison, Montgomery, Obion, Perry, Robertson, Stewart, Tipton, and Weakley Counties, TN; Ballard, Breckinridge, Butler, Calloway, Carlisle, Christian, Caldwell, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hardin, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren, and Webster Counties, KY; and Clay, Crawford, Daviess, Dubois, Gibson, Greene, Harrison, Knox, Lawrence, Martin, Orange, Owen, Perry, Pike, Posey, Spencer, Sullivan, Vanderburgh, Vigo, and Warrick Counties, IN, restricted to traffic having a prior or subsequent movement by rail.

Volume No. OP3–075

Decided: November 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 109124 (Sub-111F), filed October 23, 1980. Applicant: SENTLE TRUCKING CORPORATION P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *metal articles*, (2) *rubber and rubber products*, (3) *plastic and plastic products*, (4) *forest, lumber or wood products*, (5) *clay, concrete, glass, refractory and stone products*, (6) *pulp, paper and paper products*, (7) *building, insulating and contractors' materials, equipment and supplies*, (8) *chemicals and allied products*, as described in Item 28 of the Standard Transportation Commodity Code, (9)(a) *agricultural and industrial machinery*, and (b) *equipment, implements and parts* for the commodities in (9) (a), (10) *alloys, minerals, ores, salt, sand, carbon, graphite and stone*, (11) *dry bulk commodities*, (12) *waste or scrap materials*, (13) *fiberglass, fibrous glass, urethane, calcium silicate, polyester resins*, (14) *fiberglass fibrous glass, urethane, calcium silicate*, and *polyester resin products*, and (15) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1) through (14) above, (a) between those points in the U.S. in and east of ND, SD, NE, KS,OK, and TX, and (b) between the points in (a) above on the one hand, and , on the other, those points in the U.S. west of ND, SD, NE, KS, OK and TX (except AK and HI).

Note.—Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation of Certificates Nos MC–109124 and sub-numbers.

MC 134404 (Sub-67F), filed November 5, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contracts with (1) Thomas & Betts Corporation, of Raritan, NJ; (2) AMF Wheel Goods Division, AMF, Inc., of Oleny, IL; and (3) Chevron Chemical Company of Dallas, TX.

MC 142995 (Sub-1F), filed October 15, 1980. Applicant: AIRLIN TRUCKING CO., INC., Foot of Cutters Dock Road, Woodbridge, NJ 07095. Representative:

George V. D'Agostino (same address as applicant). Transporting (1) *limestone*, (2) *liquid limestone slurry*, in bulk, in tank vehicles, (3) *marble chips*, in bags, (4) *sand*, in bags, (5) *talc and talc tailings*, between points in the U.S., under continuing contract(s) with Omya, Inc., and Protexulate, Inc. (Pluess Staufer Industries), of Proctor, VT.

MC 149475 (Sub-1F), filed November 5, 1980. Applicant: JOHN M. HELFRICH, Glen Ullin, ND 58531. Representative: John B. Van De North, Jr., 2200 First National Bank Bldg., St. Paul, MN, 55101. Transporting *forest products*, between points in the U.S., under continuing contract(s) with Lavelle Lumber Co., of Fargo, ND.

MC 149575 (Sub-2F), filed October 30, 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 *lumber and forest products*, between points in AL, FL, GA, MS, NC, and SC.

MC 152125 (Sub-2F), filed November 7, 1980. Applicant: MIDWEST CONTAINER SERVICES, INC., 5717 Hamlet Ave., Cleveland, OH 44115. Representative: Douglas R. Denny, 1050 Union Commerce Bldg., Cleveland, OH 44115. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives and commodities in bulk), between points in MI, OH, and KY, on the one hand, and, on the other, points in MD, NJ, NY, PA, and VA, restricted to traffic having a prior or subsequent movement by water.

MC 152264 (Sub-1F), filed October 28, 1980. Applicant: WHITE AND BLUE TAXI OF SCHENECTADY, INC., 1743 State St., Schenectady, NY 12304. Representative: Nick Solomakos, 1330 State St., Schenectady, NY 12304. Transporting *passengers and their baggage*, in the same vehicle with passengers, beytween points in the U.S., under continuing contract(s) with Consolidated Rail Corporation, of Phildelphia, PA. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage by furnishing transportation services designed to meet the distinct need of each person served. In a particular applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 152284 (Sub-1F), filed October 27, 1980. Applicant: INDIANA HEAVY & SPECIALIZED CARRIER, INC., Route 1, Wilson Ave., Madison, IN 47250. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting (1) *leather, and leather products*, and (2) *materials* used in the manufacture of leather products, between points in the U.S., under continuing contract(s) with Robus Products Corporation, of Madison, IN.

MC 152474 (Sub-1F), filed October 21, 1980. Applicant: KBS, Inc., RD1, Box 7, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *scrap metal*, between points in York, Adams, Dauphin, Lancaster, Chester, Berks, Lebanon, Cumberland, Franklin and Fulton Counties, PA, on the one hand, and, on the other, points in MD, VA, NJ, DE, and DC.

Volume No. OP5–052

Decided: November 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 8958 (Sub-46F), filed October 16, 1980. Applicant: THE YOUNGSTOWN CARTAGE CO., INC., 825 W. Federal St., Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *aluminum articles* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in Berkeley County, SC, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, MI, NO, NJ, NY, OH, PA, RI, WV, WI, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidvit indicating why such approval is unnecessary.

MC 78118 (Sub-58F), filed October 21, 1980. Applicant: WM H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 402 N. Front St., Harrisburg, PA 17101. Transporting *such commodities* as are manufactured, dealt in, or used by a manufacturer or distributor of glass containers (except commodities in bulk), between points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the facilities of Glass Containers Corporation. Condition: prior or coincidental cancellation, at applicant's written request, of Certificates No. MC 78118 Sub Nos. 34, 36 and 47-F.

MC 106398 (Sub-1084F), filed October 23, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *primary metal products*, including galvanized, as described in Item 33 and *fabricated metal products* (except ordnance), as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in Marion and Clackamas Counties, OR and Green County, AR, on the one hand, and, on the other, points in the U.S.

MC 109689 (Sub-379F), filed October 21, 1980. Applicant: W. S. HATCH COMPANY, P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, Suite 400, 10 Broadway Bldg., Salt Lake City, UT 84101. Transporting *commodities in bulk*, between points in the U.S.

MC 117119 (Sub-833F), filed October 21, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, (same address as applicant). Transporting (1) *such commodities*, as are dealt in or used by food business houses, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 119689 (Sub-32F), filed October 20, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same address as applicant). Transporting *adhesives and liquid plastics*, from Columbus, OH, to Marshall, MI.

MC 129908 (Sub-60F), filed October 16, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73107. Transporting *food or kindred products, and fabricated metal products*, between points in CA, on the one hand, and, on the other, points in AL, AR, AZ, CO, FL, GA, ID, IL, IN, IA, KS, KY, MO, NC, NY, OH, OR, PA, TN, TX, WA, and WI.

MC 140389 (Sub-92F), filed October 28, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conleys GA 30027. Transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AL and HI), restricted to

traffic originating at or destined to facilities used by Ralston Purina Company.

MC 141108 (Sub-12F), filed October 20, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *materials, equipment and supplies* used in the manufacture and distribution of office equipment, from points in IL, IN, MO, OH, PA, and WV to Muscatine, IA.

MC 144888 (Sub-19F), filed October 20, 1980. Applicant: BIL–RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, New Jersey 08876. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. Transporting *new furniture and plastic articles,* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of furniture and plastic articles, between points in NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA.

MC 144969 (Sub-24F), filed October 28, 1980. Applicant: WHEATON CARTAGE CO., 3rd and "G" Streets, Millville, NJ 08332. Representative: Lawrence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting *such commodities* as are dealt in by manufacturers of shipping containers, pulpwood, paper products, foodstuffs and syrups (except those of unsual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between Philadelphia and Bala-Cynwyd, PA, and Vineland, NJ, on the one hand, and on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Connelly Container, Inc.

MC 145018 (Sub-16F), filed October 26, 1980. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the sale and distribution of the commodities in (1), between points in OH, on the one hand, and, on the other, North East and Erie, PA, and Westfield, NY.

MC 145219 (Sub-16F), filed October 23, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 500, Camden, SC 29020. Representative: William P. Sullivan, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting (1) *compounds and roof coatings,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1), between points in Jefferson and Harris Counties, TX and Jefferson Parish, LA, on the one hand, and, on the other, points in AL, AR, AZ, CO, DE, FL, GA, IL, KY, LA, MD, MN, MS, NC, ND, NE, NJ, NM, NY, OH, PA, SC, SD, TN, TX, VA, WI, WV, and DC.

MC 145529 (Sub-3F), filed October 15, 1980. Applicant: ROBERT STEEN, d.b.a. STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. Transporting (a) *lumber,* (b) *building materials and supplies,* and (c) *bentonite,* between points in MN, MT, ME, SD, and WY, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NM, OH, OK, PA, TX, WI, and WY.

MC 146078 (Sub-31F), filed October 22, 1980. Applicant: CAL–ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *Dockboard, iron and steel, dock levelers, and rubber bump blocks,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between the facilities of DLM, Inc., at Malvern, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146148 (Sub-14F), filed October 27, 1980. Applicant: B–RIGHT TRUCKING CO., a corporation, 492 Old St. Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *fabricated and primary metal articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, KY, MI, OH, PA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

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Decided: November 15, 1980.

By the Commission, Review Board Numbers 3, Members Parker, Fortier and Hill.

MC 146589 (Sub-4F), filed October 21, 1980. Applicant: REGIONAL TRANSPORTATION COMPANY, INC., 600 Secaucus Rd., Secaucus, NJ 07094. Representative: Herbert S. Zischkau, III, 277 Park Ave., New York, NY 10172. Transporting *such commodities* as are dealt in or used by toy and variety stores, between points in the U.S., under continuing contract(s) with Lash Tameron Distributors, a division of Toys "R" Us, Inc., of Rochelle Park, NJ.

MC 147348 (Sub-10F), filed October 21, 1980. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting (1) *household appliances,* (2) *television sets and recorders,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk) between the facilities of General Electric Company, at Little Rock, AR, and points in LA, MS, NM, TX, and OK.

MC 147949 (Sub-5F), filed October 23, 1980. Applicant: ROEDER CARTAGE COMPANY, INCORPORATED, 15 175 Mumaugh Rd., Lima, OH 45804. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *pulverized rubber and materials, equipment, and supplies* used in the manufacture and distribution of pulverized rubber, between points in the U.S. under continuing contract(s) with Midwest Elastomers, Inc., of Wapakoneta, OH.

MC 148548 (Sub-2F), filed October 20, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *lumber and plywood,* between points in the U.S. under continuing contract(s) with Hardman Lumber Co., of Osborn, KS.

MC 148698 (Sub-2F), filed October 20, 1980. Applicant: LEISURE TIME DISTRIBUTORS, INC., 2318 Deepwater Terminal Road, Richmond, VA 23234. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Transporting (1) *boats, boat trailers and marine accessories,* 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 Galaxy Boat Manufacturing Company, Inc., of Columbia, SC.

MC 148769 (Sub-4F), filed October 20, 1980. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 50 Freeport Blvd., Unit No. 17, Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *non-exempt food and kindred products,* (2) *adhesives, and wallboard,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2), betwen points in the U.S., under continuing contract(s) with Prause Milling Company, of Milwaukee, WI.

MC 149078 (Sub-7F), filed October 27, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., P.O. Box 3637, Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. Transporting *foodstuffs*, between points in Los Angeles County, CA, and Allegheny and Erie Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149218 (Sub-10F), filed October 20, 1980. Applicant: SUNBELT EXPRESS, INC., U.S. Hwy 78 West, Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *malt beverages*, between points in GA and OH, on the one hand, and, on the other, points in AL, AR, GA, IL, TN, KY, LA, MS, MO, NC, OH, SC, TN, VA, and WV.

MC 149218 (Sub-11F), filed October 21, 1980. Applicant: SUNBELT EXPRESS, INC., Highway 78 West, P.O. Box 604, Bremen, GA 30110. Representative: Pat H. Carden (same address as applicant). Transporting (1) *plastic and plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic and plastic articles, between points in GA, on the one hand, and, on the other, points in AL, AR, FL, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA, and WV.

MC 150088 (Sub-1F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting *household appliances, television receiving sets*, and *television receiving set stands*, between Pulaski County, AR, on the one hand, and, on the other, points in TX and OK.

MC 150088 (Sub-2F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75243. Transporting (1) *such commodities* as are dealt in or used by retail, variety or department stores, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in Carter, Comanche, Canadian, Cleveland, McClain, Oklahoma and Pottawatomie Counties, OK, Pulaski County, AR, Bossier, Caddo and Ouachita Parishes, LA, and points in CO, KS, and MO.

MC 150088 (Sub-3F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting (1)(a) *such commodities* as are dealt in or used by retail, chain, grocery, and food business houses, (b) *soy products, paste, flour products, and dairy-based products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between the facilities of Ralston-Purina Company at points in Canadian, Cleveland, Caddo, Pottawatomie, and Oklahoma Counties, OK, on the one hand, and, on the other, points in Dallas and Tarrant Counties, TX.

MC 150159 (Sub-1F), filed October 21, 1980. Applicant: WILNER'S LIVERY SERVICE, INC., 1421 Witherspoon Street, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, limited to the transportation of not more than 6 passengers (not including the driver) in one vehicle at one time, in non-scheduled door-to-door service, between points in Middlesex, Somerset and Union Counties, NJ, on the one hand, and, on the other, John F. Kennedy International and LaGuardia Airports, NY, and Philadelphia International Airport, Philadelphia, Pa.

MC 150339 (Sub-8F), filed October 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). 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 B. F. Goodrich Company, of Akron, OH.

Note.—The person or persons who appear to be engaged in commmon control with applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150339 (Sub-9F), filed October 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). 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 Zurn Industries, Inc., of Erie, PA.

Note.—The person or persons who appear to be engaged in commom control of applicant and another regulated carrier, must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150339 (Sub-10F), filed October 16, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). 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 Sullair Corporation, of Michigan City, IN.

MC 150559 (Sub-2F), filed October 24, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Ave., Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting *antifreeze, charcoal, charcoal briquets, charcoal lighter fluid, paper bags, fireplace logs, ground clay*, in bags, *lubricants, and motor oil*, between points in OK and points in and east of MN, IA, MO, AR, and LA.

Volume No. OP5–054

Decided November 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 150939 (Sub-2F), filed October 28, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 150949 (Sub-3F), filed October 27, 1980. Applicant: NFI, INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry P.O. Box 2165, Austin, TX 78768. Transporting (1) *bicycles, bicycle parts and accessories for bicycles*, and (2) *materials and supplies* used in the manufacture and distribution of bicycles, from Ponca City, OK, to points in AR, KS, LA, NM, and TX.

MC 150949 (Sub-4F), filed October 28, 1980. Applicant: NFI, INC., P.O. Box 664, So. Interstate No. 35, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Ave., Vineland, NJ 08360. Transporting *plumbing goods and plumbing fixtures*, and *materials, equipment, and supplies* used in the manufacture and distribution of plumbing goods and plumbing fixtures, between points in Lee County, MS, on the one hand, and, on the other, points in AR, LA, and TX, restricted to traffic

originating at or destined to the facilities of Eljer Plumingware.

MC 150978 (Sub-1F), filed October 16, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 W. Touhy Ave.—Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the United States, under continuing contract(s) with Transportation Manufacturing Corporation and Romax, Inc., of Roswell, NM.

MC 150988 (Sub-1F), filed October 29, 1980. Applicant: A & B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *paper products,* between points in Columbus, Robeson, and Cumberland Counties, NC, on the one hand, and, on the other, points in SC, VA, MD, DE, PA, NJ, IN, and OH.

MC 150988 (Sub-2F), filed October 29, 1980. Applicant: A & B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *new furniture* and *new furniture parts,* between points in Cumberland County, NC on the one hand, and, on the other, points in GA, FL, SC, VA, MD, DE, NY, NJ, PA, OH, and DC.

MC 151059 (Sub-1F), filed October 28, 1980. Applicant: COWBOY OIL COMPANY, Box 47, Woods Cross, UT 84087. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. Transporting *crude petroleum* between points in the U.S., under continuing contract(s) with Listro Petroleum Incorporated of Houston, TX.

MC 151078 (Sub-1F), filed October 22, 1980. Applicant: COASTAL FAST FREIGHT, INC., 346 Claremont Ave., Jersey City, NJ 07305. Representative: Charles A. Webb, 1828 L. Street, NW., Suite 1111, Washington, DC 20036. Transporting *automobile air conditioners and parts and accessories for automobile air conditioners,* between points in the U.S., under continuing contract(s) with Nippondenso of Los Angeles, Inc., of Carson, CA.

MC 151119 (Sub-1F), filed October 20, 1980. Applicant: OVERLAND CONTRACT CARRIERS CORP., 2025 English Ave., Indianapolis, IN 46203. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in IN.

MC 151768 (Sub-2F), filed October 20, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. restricted to traffic originating at or destined to the facilities of Ardan, Inc.

MC 151768 (Sub-3F), filed October 20, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *foodstuffs* (1) from Imlay City, Bridgeport and Memphis, MI, to points in Washington County, MS, and (2) from points in Washington County, MS, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, MO, NE, OK, TN, and TX.

MC 152119 (Sub-1F), filed October 15, 1980. Applicant: SCHLAGER'S AUTO BODY REPAIR, INC., 101 Willard St., West Quincy, MA 02169. Representative: Robert G. Parks, 20 Walnut St.—Suite 101, Wellesley Hills, MA 02181. Transporting *disabled, wrecked, repossessed, and replacement motor vehicles,* between Boston and Quincy, MA, on the one hand, and, on the other, points in ME, NH, VT, RI, CT, and NY.

MC 152169 (Sub-1F), filed October 21, 1980. Applicant: PACIFIC BASIN INDUSTRIES, INC., Pier 91, Bldg. 50, Seattle, WA 98119. Representative: William D. Redhead (same address as applicant). Transporting (1) *prefabricated alumium curtain walls* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) between points in King County, WA, and points in AZ, CA, CO, ID, NM, NV, MT, OR, TX, WA, and WY. Condition: The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 152229 (Sub-1F), filed October 15, 1980. Applicant: SALINAS TRUCK BROKERS, INC., 730 Airport Blvd., Salinas, CA 93202. Representative: Ben Ryburn (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of Griffin Corporation, at Valdosta and Bainbridge, GA, and Mexico, MO, on the one hand, and, on the other, points in the U.S.

MC 152299F, filed October 21, 1980. Applicant: FLORIDA DISTRIBUTION SERVICE, INC., 1212 North 39th St., Tampa, FL 33605. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *such commodities* as are dealt in or used by grocery, drug, hardware, and retail chain stores, between points in FL, restricted to traffic having a prior or subsequent movement in interstate or foreign commerce.

MC 152358F, filed October 22, 1980. Applicant: CREEK TRUCKING CO., INC., P.O. Box 84, Woodburn, KY 40170. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting (1) *syrup, cans, and bottles,* and (2) *materials and supplies* used in the manufacture and distribution of soft drinks, (except commodities in bulk), between points in Warren County, KY, on the one hand, and, on the other, points in LA, AL, OK, WV, MO, TN, OH, IL, MS, AR, GA, IN, and NC.

MC 152399F, filed October 27, 1980. Applicant: GENERAL TRANSPORT, INC., 3601 N.W. Yeon Ave., Portland, OR 97210. Representative: R. J. Kathrens (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, petroleum in bulk and cement in bulk), between points in OR, WA, ID, and CA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of Classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36355 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 36]

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (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). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons 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. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonabale compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 77721 (M1F) (Republication of notice of filing of petition to modify certificate), filed May 27, 1980. Petitioner: JERRY M. BARNER & SONS, 1211 Spruce St., Roselle, NJ 07203. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 77721, issued October 10, 1962 authorizing transportaion over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, and Union Counties, NJ. By the instant petition petitioner seeks to modify the above authority by adding Suffolk County, NY to the base territorial description and Camden, NJ to the radial portion of the territorial description.

Note.—The purpose of this republication is to indicate that petitioner is adding Camden, NJ to the territorial description.

MC 108313 (Sub-14(M1F)) (correction), filed April 25, 1980, published in the **Federal Register**, issue of October 8, 1980, and republished, as corrected, this issue, (Notice of Filing of Petition to Modify Permit). Petitioner: CALEDONIA LINES, INC., 100 Sunny Sol Blvd., P.O. Box 8, Caledonia, NY 14423. Representative: Stephen J. Habash (same as applicant). Petitioner holds a motor *contract carrier* Permit in MC 108313 Sub 14, issued September 17, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, transporting (1) *compressed gases and liquid chemicals,* in bulk (except liquified petroleum gases), (a) from Houston, TX; Moundsville, Charleston and Natrium, WV; Lake Charles, Geismar and Gramercy, and Tampa, FL; Charlestown, TN; and Edgemoor, DE, to Charlotte, NC; Festus, MO; Reserve, LA; Milford, VA; Mobile, AL; St. Petersburg, Jacksonville, and Ft. Lauderdale, FL: and (b) from Edgemoor, DE, to Beech Grove and Hammond, IN; Orrington, ME; Wyandotte, Montague, Midland and Ludington, MI; Merrimack, NH; Newark, Bayonne, and Linden, NJ; Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, NY; Ashtabula, South Point, Barberton, and Columbiana, OH; and Erie, PA, and (2) *chemicals, cleaners, detergents, waxes,* in containers, and *empty containers for those commodities,* between Mobile and Evans City, AL; Denver, CO; Edgemoor, DE; St. Petersburg, Fort Lauderdale, Jacksonville, and Tampa, FL; Augusta and Brunswick, GA; Danville, IL; Beechgrove and Hammond, IN; Calvert City and Louisville, KY; Lake Charles, Plaquemine, Gramercy, Geismar, Baton Rouge, Taft, and Reserve, LA; Orrington, ME; Curtis Bay, MD; Wyandotte, Montague, Midland, and Ludington, MI; Festus, MO; Merrimack, NH; Newark, Bayonne, and Linden, NJ; Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, NY; Charlotte and Acme, NC; Ashtabula, South Point, Barberton and Columbiana, OH; Erie, PA; Charleston, TN; Houston, TX; Milford, Hopewell, and Norfolk, VA; Natrium, Moundsville, and Charleston, WV; Hudson, Milwaukee, and Port Edwards, WI, under a continuing contract or contract(s) with Jones Chemicals, Inc., of Caledonia, NY. By the instant petition, petitioner seeks to modify the above authority as follows: (1) *Compressed gases and liquid chemicals,* in bulk (except liquified petroleum gases) (a) from points in AL, DE, FL, GA, KY, LA, NC, TN, TX, and WV, to points in AL, FL, LA, MO, NC, and VA; and (b) from points in DE, to points in IN, ME, MI, NH, NJ, NY, OH and PA; (2) *chemicals, cleaners, detergents and waxes,* in containers and *empty containers for those commodities* between points in AL, CO, DE, FL, GA, IN, IL, KY, LA, ME, MD, MI, MO, NH, NJ, NY, NC, OH, PA, TN, TX, VA, WV, WI; under continuing contract(s) with Jones Chemicals, Inc. of Caledonia, NY.

Note.—The purpose of this republication is to add the state of NY in part (2), inadvertently omitted.

MC 143607 (Sub-16F) (M–1)F (Notice of Filing of Petition to Add Additional Contracting Shipper), filed November 6, 1980. Petitioner: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Petitioner holds motor *contract carrier* permits in MC–143607 (Sub-No. 16F), issued August 26, 1980. MC–143607 (Sub-No. 16F) authorizes transportation over irregular routes, transporting (1) *foodstuffs, and meats, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of or used by Swift & Company, all under continuing contract(s) with Swift & Company, of Chicago, IL. By the instant petition, the petitioner seeks to modify the above permit by adding Bunge Edible Oil Corporation, of Bradley, IL, as an additional contracting shipper.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before December 22, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 7698 (MIF) (Republication of Notice of Filing Petition For Modification of Certificates), filed November 20, 1978, published in the FR issue of March 15, 1979. Applicant: FOWLER & WILLIAMS, INC., 1300 Meylert Avenue, Scranton, PA 18509. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. A Decision of the Commission, Division 2, decided June 16, 1980, and served June 26, 1980, finds that the present and future public convenience and necessity require modification of the last two paragraphs on sheet 3 and the first two lines on sheet 4 of Certificate MC 7698, issued March 28, 1956, authorizing the transportation of *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in New Jersey, on the one hand, and, on the other, points in Pennsylvania in Bradford, Bucks, Carbon, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Philadelphia, Pike, Northampton, Sullivan, Susquehanna, Wayne, and Wyoming Counties, and those portions of Columbia, Montour, and Northumberland Counties lying on the north bank and north of the Susquehanna River, all within 150 miles of Belleville, NJ.

MC 121060 (Sub-81F), (Republication), filed May 15, 1978, previously noticed in the FR issue of February 20, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. A decision by the Commission, Division I, acting as an Appellate Division, decided October 27, 1980, and served November 4, 1980, finds that the present and future public convenience and necessity requires operation by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting, (1) *pipe, hydrants, valves, and iron and steel articles,* from points in Jefferson and Shelby Counties, AL, to points in the U.S. (except AK and HI); and (2) *materials, equipment, and supplies* used in (1) (except commodities in bulk), from points in the U.S. (except AK and HI), to points in Jefferson and Shelby Counties, AL. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations.

Note.—The purpose of this republication is to indicate the addition of hydrants and valves in the commodity description.

Permanent Authority Decisions Volume Decision-Notice

Decided: October 30, 1980.

The following broker, freight forwarder or water carrier applications 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 protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedure of the Commission will result in its dismissal.

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 November 21, 1980.*

Any authority granted may reflect administratively 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 exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) 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 regulations. 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 the absence of legally sufficient protests, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall

not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Member Chandler, Liberman, and Eaton. Member Eaton not participating.

FF–129 (Sub-2F), filed March 3, 1980, previously noticed in FR issue of September 29, 1980. Applicant: UNITED FREIGHT FORWARDERS, INC., 170 Main Street, Holyoke, MA 01040. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Freight forwarder,* in interstate commerce, of *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), through the use of the facilities of rail and motor common carriers, from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to points in AZ, CA, CO, FL, ID, IA, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

Note.—This republication changes VT to UT in the destination territory.

W–381 (Sub-20F), filed June 23, 1980. Applicant: FEDERAL BARGE LINES, INC., 7501 South Broadway, St. Louis, MO 63111. Representative: Richard J. Hardy, 425 Thirteenth St., N.W., Suite 1212, Washington, DC 20004. To operate as a *common carrier,* by water, (1) by non-self propelled vessels with the use of separate towing vessels, and (2) in the performance of general towage by towing vessels, in interstate or foreign commerce, transporting *general commodities* (a) between ports and points along the Monongehela River, from Pittsburgh, PA, to Fairmont, WV, and (b) between ports and points along the Allegheny River from Pittsburgh, PA, to Monterey, PA. Condition: This is a major regulatory action and requires preparation of a statement of energy impact under the provisions of 49 CFR 1106.5(a)(8). Accordingly, applicant must submit the information required by 49 CFR 1106.7(a). Upon submission of such information, an appropriate statement of energy impact will be prepared.

Permanent Authority Decisions Volume Decision-Notice

Decided: November 11, 1980.

The following broker, freight forwarder or water carrier applications 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 protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to 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.

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 November 21, 1980.*

Any authority granted may reflect administratively 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 exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) 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 regulations. 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 the absence of legally sufficient protests, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 130868F, filed April 15, 1980. Applicant: NAZIH W. SAYAH d.b.a. BEST TOURS AND TRAVEL, 2609 East McKinley, Suite #N, Fresno, CA 93703. Representative: Nazih W. Sayah, 189 West Santa-Ana #J, Clovis, CA 93612. To engage in operations as a *broker,* at Fresno, CA, in arranging for the transportation of *passengers and their baggage,* beginning and ending at Fresno, CA, and extending to points in CA and NV.

MC 130309F, filed June 5, 1980. Applicant: PAUL WAKEFIELD, d.b.a. GREAT AMERICAN TRAVEL AGENCY, INC., 5315 Brainerd Road, Chattanooga, TN 37411. Representative: Paul Wakefield (same address as applicant). To engage in operations as a *broker,* at Chattanooga, TN, in arranging for the transportation of passengers and their baggage, beginning and ending at points in Fulton County, GA, and Logan, Caldwell, Lyon, and Graves Counties, KY, and extending to points in the US (including AK and HI).

MC 130769F, filed December 28, 1979. Applicant's name and address are L & R TRAFFIC SERVICE, INC., 1701 North

Delaware Avenue, Philadelphia, PA 19125. The name under which operations will be performed is L & R TRAFFIC SERVICE, INC. Applicant is represented by Thomas F. X. Foley in this proceeding whose address is P.O. Box F, Colts Neck, NJ 07722. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Louis R. Ricci, President, Director, Secretary-Treasurer (same address as applicant). The daily operations will be managed by Louis Ricci whose business address is same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before December 22, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 74761 (Deviation No. 18), TRAILWAYS, INC., 315 Continental Ave., Dallas, TX 75207, filed November 3, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Thomaston, GA over GA Hwy 36 to junction US Hwy 27A, then over US Hwy 27A to Columbus, GA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Thomaston, GA over US Hwy 19 to junction US Hwy 80, then over US Hwy 80 to Columbus, GA and return over the same route.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-514, filed October 30, 1980. Applicant: I-88 EXPRESS LINES, INC., Route 7, Box 148, Cobleskill, NY 12043. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between all points in the Counties of Albany, Schoharie, Schenectady, Otsego and Rensselaer. To convert regular to irregular route authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus, Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-9806, filed October 22, 1980. Applicant: TEE PEE TRUCKING INC., P.O. Box 71, Cross River, NY 10518. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between New York City on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus, Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80-285-T, filed September 5, 1980. Applicant: A-1 PUMPING SERVICE, INC., Route 1, Patch Drive, Spartanburg, SC 29302. Representative: David G. Ingalls, P.O. Box 631, Spartanburg, SC. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Hazardous wastes, consisting of any waste or combinations of waste of a solid, liquid, contained gaseous, or semisolid form, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, is defined by Section 44-56-20 (6) of the 1979 Cum. Supp. 1976 code of laws of S.C., and amended, and is identified by Rule 61-79.1B promulgated by the S.C. Department of Health and Environmental Control, effective March 31, 1980, and amended: Between points and places in S.C. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, 8th Floor, Owen Building, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Decisions; Decision-Notice; Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: November 3, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before December 22, 1980.

Petitions for intervention without leave (i.e.) automatic intervention) may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public

need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

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 November 21, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. 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 regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell. Member Dowell not participating.

MC 4963 (Sub-125F), filed July 1, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Perpetual Bldg., Suite 501, 1111 E St. NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving Louisville, KY, Owensboro, KY, and points in IN as off-route points in connection with applicant's regular routes authority. Applicant states that it intends to tack the authority sought with its existing authority.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 120181 (Sub-20F), filed June 27, 1980. Applicant: MAIN LINE HAULING CO., INC., Box C, St. Clair, Mo 63077. Representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, DC 20036. Authority sought to operate, as a *common carrier*, by motor vehicle in interstate or foreign commerce, over (A) *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Meadville and Springfield, MO, from Meadville over US Hwy 36 to junction US Hwy 65 at Chillicothe, and then over US Hwy 65 to Springfield, and return over the same route, serving Chillicothe, MO, as an intermediate point for purposes of joinder only; (2) between Kansas City, MO, and Quincy, IL, from Kansas City, MO over US Hwy 69 to junction US Hwy 36, then over US Hwy 36 to junction US Hwy 24, then over US Hwy 24 to Quincy, IL, and return over the same route, serving the intermediate and off-route points of Cameron, Hamilton, Nettleton, Mooresville, Laclede, Brookfield, Calla, Macon, Kidder, Breckenridge, Utica, Chillicothe, Wheeling, Meadville, Marceline, Bucklin, New Cambria, and Bevier, MO; (3) between Laclede and Unionville, MO, over MO Hwy 5, serving the intermediate and off-route points of Linneus, Purdin, Browning, Milan, Lemons, Cora, Green City, Greencastle, Boynton, and Pollock, MO, and return from Unionville over US Hwy 136 to junction MO Hwy 139 near Lucerne, MO, then over MO Hwy 139 to junction MO Hwy 6, then over MO Hwy 6 to junction MO Hwy 5, then over MO Hwy 5 to Laclede, serving the intermediate and off-route points of Lucerne, Newtown, Harris, Humphreys, Reger, Browning, Linneus, Purdin, Powersville, Galt, Dunlap, Laredo, and Cora, MO; (4) between Chillicothe and Princeton, MO, over US Hwy 65, serving the intermediate points of Farmersville, Trenton, Tindall, Spickard, and Mill Gove, MO; (5) between St. Joseph and Cameron, MO, over US Hwy 36, serving no intermediate points but serving the off-route point of Osborn, MO; (6) serving all intermediate points on US Hwy 36 between St. Joseph and Cameron, MO, in connection with carrier's regular route operations authorized herein; (7) between Kansas City and Chillicothe, MO, from Kansas City over US Hwy 24 to Waverly, then over US Hwy 65 to Chillicothe, and return over the same route, serving all intermediate points; (8) between junction US Hwys 36 and 61 and Chicago, IL, from junction US Hwys 36 and 61 over US Hwy 36 to Springfield, IL, then over Interstate Hwy 55 via its junction with US Hwy 24 to Chicago, IL and return over the same route, serving no intermediate points, and serving junction US Hwy 24 and Interstate Hwy 55 for purposes of joinder only; (9) between junction IL Hwy 96 and US Hwy 24 and junction US Hwy 24 and Interstate Hwy 55, over US Hwy 24, serving no intermediate points and serving junction IL Hwy 96 and US Hwy 24 and junction US Hwy 24 and Interstate Hwy 55 for purposes of joinder only; (10) between Monmouth and Good Hope, IL, over US Hwy 67, serving all intermediate points; (11) between junction IA Hwy 22 and US

Hwy 61 and Dubuque, IA, over US Hwy 61, serving all intermediate points; (12) between Davenport, IA, and junction US Hwys 6 and 63, over US Hwy 6, serving all intermediate points; (13) between junction MO Hwy 6 and US Hwy 63 and Princeton, MO, from junction MO Hwy 6 and US Hwy 63 over MO Hwy 6 to junction US Hwy 65, then over US Hwy 65 to Princeton, and return over the same route, serving no intermediate points, and serving junction MO Hwy 6 and US Hwy 63 and Princeton for purposes of joinder only; (14) between Donnelson and Cedar Rapids, IA, over US Hwy 218, serving all intermediate points; (15) between Ottumwa and Waterloo, IA, over US Hwy 63, serving all intermediate points; (16) between junction US Hwy 63 and IA Hwy 149 and Iowa City, IA, from junction US Hwy 63 and IA Hwy 149 over IA Hwy 149 to Sigourney, IA, then over IA Hwy 92 to junction IA Hwy 1, then over IA Hwy 1 to Iowa City, and return over the same route, serving all intermediate points; (17) between Bloomfield, IA, and Kirksville, MO, over US Hwy 63, serving all intermediate points; (18) serving all intermediate points on US Hwy 36 between St. Joseph, MO and Cameron, MO in connection with carrier's regular route operations authorized herein; (19) between St. Joseph and Kansas City, MO, over Interstate Hwy 29, serving no intermediate points and serving the termini for purposes of joinder only; serving points in that part of IA on and east of US Hwy 63, those in that part of MO on and north of US Hwy 40; those in that part of IL north of a line beginning at a point on US Hwy 24 at the IL-MO state line and extending along US Hwy 24 to junction Interstate Hwy 55, then along US Hwy 55 to Chicago, IL, (including points in the Chicago, IL commercial zone as defined by the Commission), as off-route points in connection with carrier's otherwise authorized regular-route operation; (20) between Memphis, MO, and Quincy, IL, from Memphis, MO over US Hwy 136 to junction US Hwy 61, then over US Hwy 61 to Taylor, MO, and then over US Hwy 24 to Quincy, IL, and return over the same route, serving no intermediate points, but serving the off-route points of Gorin and Granger, MO; (21) between Memphis and Lancaster, MO, over US Hwy 136, serving the intermediate point of Downing, MO; (22) between Memphis, MO, and National Stock Yards, IL, from Memphis over US Hwy 136 to junction US Hwy 61, then over US Hwy 61 to Wentzille, MO, then over US Hwy 40 to East St. Louis, IL, then over city streets to National Stock Yards, and return over the same route, serving the intermediate points of St. Louis, MO, and East St. Louis, IL; (23) between Kirksville, MO, and Quincy, IL, from Kirksville, MO over MO Hwy 6 to junction US Hwy 24, then over US Hwy 24 to Quincy, IL, and return over the same route, serving all intermediate points; (24) between Kirksville, MO, and Kansas City, KS, from Kirksville, MO, over US Hwy 63 to Macon, MO, then over US Hwy 36 to Cameron, MO, then over US Hwy 69 to Kansas City, and return over the same route, serving all intermediate points, and serving the off-route point of Marceline, MO; (25) between Kirksville and Milan, MO, (a) over US Hwy 6, serving all intermediate points, and (b) from Kirksville over US Hwy 63 to Lancaster, then over US Hwy 136 to Unionville, then over MO Hwy 5 to Milan, and return over the same route, serving all intermediate points; (26) between Lancaster and Edina, MO, from Lancaster over US Hwy 136 to Memphis, then over MO Hwy 15 to Edina, and return over the same route, serving all intermediate points; (27) between Princeton, MO, and Des Moines, IA, over US Hwy 65, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (28) between Centerville and Des Moines, IA, (a) over IA Hwy 5, (b) from Centerville over IA Hwy 2 to junction US Hwy 65, then over US Hwy 65 to Des Moines, (c) from Centerville over IA Hwy 5 to junction US Hwy 34, then over US Hwy 34 to junction US Hwy 65 and then over US Hwy 65 to Des Moines, serving Centerville as a point of joinder only, and return over the same routes, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (29) between Ottumwa and Des Moines, IA, (a) from Ottumwa over US Hwy 63 to junction IA Hwy 163, then over IA Hwy 163 to Des Moines, (b) from Ottumwa over US Hwy 63 to junction US Hwy 6, then over US Hwy 6 to Des Moines, serving the junction of US Hwy 6 and 63 for purposes of joinder only, (c) from Ottumwa over US Hwy 63 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, serving the junction of US Hwy 63 and Interstate Hwy 80 for purposes of joinder only, (d) from Ottumwa over US Hwy 63 to junction IA Hwy 92, then over IA Hwy 92 to junction IA Hwy 5, then over IA Hwy 5 to Des Moines, (e) from Ottumwa over US Hwy 34 to junction US Hwys 5 and 65, then over US Hwy 65 to Des Moines, and return over the same routes, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (30) between junction US Hwy 218 and IA Hwy 92, and Des Moines, IA, from juction US Hwy 218 and IA Hwy 92 over IA Hwy 92 to junction IA Hwy 163, and then over IA Hwy 163 to Des Moines, and return over the same route, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, than along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA State line, as off-route points. RESTRICTION: The authority granted in routes (28) to (30) above is restricted to the transportation of traffic between Des Moines, Ottumwa, and Keokuk, IA, and points in St. Clair County, IL, on the one hand, and, on the other, points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 65 to the MO-IA state line, (31) between Canton, MO and points within 20 miles of Canton, and National Stock Yards, IL, from Canton over US Hwy 61 to Wentzille, MO, then over US Hwy 40 to East St. Louis, IL, and then over city streets to National Stock Yards, and return over the same route, serving the intermediate points of Wintzille, LaGrange, and St. Louis, MO., and East St. Louis, IL; (32) between Chicago, IL, and Ottumwa, IA, over US Hwy 34; (33) between Chicago, IL and Keokuk, IA, (a) from Chicago over US Hwy 34 to Princeton, IL, then over US Hwy 6 to Davenport, IA, then over IA Hwy 22 (formerly portion US Hwy 61), to junction US Hwy 61, then over US Hwy 61 to Keokuk, (b) from Chicago over unnumbered hwy (formerly US Hwy 330) to junction US Hwy 6, near Calumet City, IL, then over US Hwy 6 to Rock Island, IL, then over US Hwy 67 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over US Hwy 61 to Keokuk, (d) from Chicago over the above-specified route to Milan, IL, then over IL Hwy 94 (portion formerly IL Hwy 92) to junction IL Hwy 164, then over IL Hwy 164 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over the above-specified route to Keokuk, (e) from Chicago over the above-specified route to Moline, IL, then over US Hwy 150 to junction IL Hwy 17,

then over IL Hwy to Viola, IL, then over US Hwy 67 to Monmouth, IL, then over IL Hwy 164 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over the above-specified route to Keokuk, (e) from Chicago over US Hwy 20 to Rockford, IL, then over IL Hwy 2 to junction unnumbered hwy (formerly portion IL Hwy 2), at or near Dixon, IL, then over unnumbered hwy via Palmyra, IL, to junction IL Hwy 2, near Sterling, IL, then over IL Hwy 2 to Silvis, IL, then over IL Hwy 92 (formerly portion US Hwy 6), to junction US Hwy 6, then over US Hwy 6 to Davenport, IL, then over the above-specified route to Keokuk, and return over the same route, serving all intermediate points, and the off-route points of Osklaloose, Bettendorf, Kingston, Oakville, and Morning Sun, IA, and Alexis, Aurora, Blue Island, Gerlaw, Sherrard, Gilchrist, Hopewell, Little York, Seaton, Arpee, Joy, New Boston, Keithsburg, Millersburg, Edington, Lomax, Stronghurst, Raritan, Media, and Carman, IL, in connection with routes (32) and (33) above; (34) between Keokuk and Ft. Madison, and Ottumwa, IA, (a) from Keokuk over US Hwy 61 to junction US Hwy 218, then over US Hwy 218 to Donnellson, IA, then over IA Hwy 2 to Bloomfield, IA, then over US Hwy 63 to Ottumwa, and (b) from Ft. Madison over IA Hwy 2 to Donnellson, IA, then over the above-specified route to Ottumwa, and return over the same route; (35) between Burlington, IA, and Bushnell, IL, (a) from Burlington over US Hwy 61 to Ft. Madison, IA, then across the Mississippi River to Niota, IL, then over IL Hwy 9 to Bushnell, and (b) from Bushnell over IL Hwy 9 to Good Hope, IL, then over US Hwy 67 to Macomb, IL, then over US Hwy 136 to Hamilton, IL, then across the Mississippi River to Keokuk IA, then over US Hwy 61 to Burlington, and return over the same route, serving all intermediate points, and the off-route points of Warsaw, Ferris, Adrian, and Mauvoo, IL; (36) between Rockford, IL, and junction US Hwys 51 and 34, in connection with carrier's presently authorized regular-route operations, over US Hwy 51, serving no intermediate points; (37) between Donnellson, and Mt. Pleasant, IA, in connection with carrier's presently authorized regular-route operations, over US Hwy 218, serving no intermediate points; (38) between Kansas City, MO, and Hutchinson, KS, from Kansas City over city streets to Kansas City, KS, then over KS Hwy 32 to junction US Hwy 40, then over US Hwy 40 to Topeka, KS, then over unnumbered hwy to junction US Hwy 24, then over US Hwy 24 to Manhattan, KS, then over US Hwy 81 to McPherson, KS, then over unnumbered hwy (formerly KS Hwy 17), to junction KS Hwy 61, then over KS Hwy 61 to Hutchinson, and return over the same route, serving no intermediate points but serving the off-route points of Hillsboro, and South Hutchinson, MO; (39) between St. Joseph, MO, and Newton, KS, from St. Joseph over US Hwy 59 to Lawrence, KS, then over 40 to Topeka, KS, then over unnumbered hwy to junction US Hwy 24, then over US Hwy 24 to Manhattan, KS, then over KS Hwy 18 to Junction City, KS, then over US Hwy 40 to Salina, KS, then over US Hwy 81 to Newton, and return over the same route; (40) between Kansas City, MO, and Lawrence, KS, (a) over US Hwy 40, and (b) from Kansas City over US Hwy 50 to junction KS Hwy 10, then over KS Hwy 10 to junction U.S. Hwy 59, then over US Hwy 59 to Lawrence, and (c) from Kansas City over KS Hwy 32 to junction U.S. Hwy 40, then over US Hwy 40 to Lawrence, and return over the same route, serving the intermediate points of Kansas City, Victory Junction, Shawnee, Merriam, Zarah, DeSoto, Eudora, Muncie, Bonner Springs, and Linwood, KS; and the off-route points of Basehor, Leecompton, Tonganoxie, Stull, and Big Springs, KS; (41) between Wichita, and Clay Center, KS, over KS Hwy 15, serving all intermediate points, and the off-route points of Canton, Hillsboro, Tampa, Roxbury, Hope, Ramona, and Navarre, KS; (42) between Hillsboro and Hope, KS, from Hillsboro over US Hwy 56 to junction US Hwy 77, then over US Hwy 77 to junction KS Hwy 4, then over KS Hwy 4 to Hope, and return over the same route, serving all intermediate points, and the off-route points of Delavan, KS; (43) between Hope and Abilene, KS, from Hope over KS Hwy 43 to junction unnumbered county road (2 miles north of Enterprise, KS), then over unnumbered county road to Abilene, and return over the same route, serving all intermediate points; (44) between Council Grove, KS, and Kansas City, MO, (a) from Council Grove over US Hwy 56 to junction US Hwy 50, then over US Hwy 50 to Kansas City, (b) from Council Grove over US Hwy 56 to junction US Hwy 75, then over US Hwy 75 to Topeka, KS, then over US Hwy 24 to Kansas City, and (c) from Council Grove over an unnumbered Hwy via Chalk, KS to Eskridge, KS, then over KS Hwy 4 to Topeka, KS, then over US Hwy 24 to Kansas City, and return over the same route, serving the intermediate and off-route points of Skiddy, Wilsey, Delavan, Allen, and Kansas City, KS, and off-route points of North Kansas City and Sugar Creek, MO; (45) between Hutchinson, KS, and Kansas City, MO, as an alternate route for operating convenience only, in connection with carrier's regular-route operations authorized herein, from Hutchinson over US Hwy 50 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Kansas City, and return over the same route, serving no intermediate points; (46) between Hutchinson, KS, and Hutchinson Air Base Industrial Tract, from Hutchinson over KS Hwy 17 to junction unnumbered road (Yoder Road), then over Yoder Road to junction unnumbered road, then over unnumbered road to Hutchinson Air Force Base Industrial Tract, and return over the same route, serving no intermediate points; (47) serving the facilities of Minnesota Mining and Manufacturing Company, at or near Knoxville, IA as an off-route point in connection with carrier's authorized regular-route operations; (48) between Milwaukee, WI, and Rockford, IL, from Milwaukee, WI, over WI Hwy 15 to the WI–IL state line near Beloit, WI, then over IL Hwy 2 to Rockford, IL, and return over the same route; (49) between Vinita, OK, and Kansas City, MO, (a) from Vinita, OK over US Hwy 69 to junction US Hwy 166, then over US Hwy 166 to Baxter Springs, KS, then over US Hwy 66 to junction KS Hwy 26 (near Riverton, KS), then over KS Hwy 26 to Crestline, KS, then over US Hwy 69 via Godfrey, KS to Kansas City, KS, and then over city streets to Kansas City, MO, (b) from Vinita, OK over OK Hwy 2 to junction US Hwy 59, then over US Hwy 59 to Chetopa, KS, then over US Hwy 166 to junction US Hwy 69 then over US Hwy 69 to Kansas City, KS, and then over city streets to Kansas City, MO, and (c) from Vinita as specified in (b) immediately above to junction US Hwy 166 and US Hwy 69, then over US Hwy 69 to junction KS Hwy 7 (near Columbus, KS), then over KS Hwy 7 to Godfrey, KS, then over US Hwy 69 to Kansas City, KS, and then over city streets to Kansas City, MO, and return over the same route, serving the intermediate points of Kansas City, KS, and those in OK and the off-route points of North Kansas City, MO; (50) between Dallas, TX, and Vinita, OK, from Dallas over US Hwy 75 to Denison, TX, then over US Hwy 69 to junction unnumbered hwy, then over unnumbered hwy via McAlester, OK, to junction US Hwy 69, then over US Hwy 69 to junction unnumbered hwy, then over unnumbered hwy via Okay, OK to junction US Hwy 69, then over US Hwy 69 to Vinita, and return over the same route, serving all intermediate points;

(51) between Dallas and Ft. Worth, TX, from Dallas over TX Hwy 114 to Grapevine, TX, then over TX Hwy 212 to Ft. Worth, and return over the same route, serving all intermediate points; and (B) *Alternate routes for operating convenience only,* 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 St. Louis, MO, and Miami, OK, from St. Louis over Interstate Hwy 44 to junction OK Hwy 10, then over OK Hwy 10 to Miami, and return over the same route; (2) between St. Louis, MO, and Afton, OK, over Interstate Hwy 44; (3) between Springfield, MO, and Miami, OK, from Springfield over Interstate Hwy 44 to junction OK Hwy 10 then over OK Hwy 10 to Miami, and return over the same route; (4) between Springfield, MO, and Afton, MO, over Interstate Hwy 44; (5) between Wichita, KS, and Dallas, TX, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to Dallas, and return over the same route; (6) between Wichita, KS, and Ft. Worth, TX, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Ft. Worth, and return over the same route; (7) between Topeka, KS, and McAlester, OK, from Topeka over US Hwy 75 to its junction with Indian Nation Turnpike, then over Indian Nation Turnpike to junction US Hwy 270, then over US Hwy 270 to McAlester, and return over the same route; (8) between Topeka, KS, and Muskogee, OK, from Topeka over US Hwy 75 to Tulsa, OK, then over Muskogee Turnpike to Muskogee, and return over the same route; (9) between Wichita, KS, and Muskogee, OK, from Wichita over Interstate Hwy 35 to junction US Hwy 64, then over US Hwy 64 to Muskogee, and return over the same route, and (b) from Wichita over Interstate US Hwy 35 to junction with Cimarron Turnpike, then over Cimarron Turnpike to Tulsa, OK, then over Muskogee Turnpike to Muskogee, and return over the same route; (10) between Wichita, KS, and McAlester, OK, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction with Indian National Turnpike, then over Indian Nation Turnpike, to junction US Hwy 270, then over US Hwy 270 to McAlester, and return over the same route; (11) between Good Hope, and Monmouth, IL, over US Hwy 67; and (C) *irregular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City and St. Joseph, MO, on the one hand, and, on the other, those points in IL on and north of US Hwy 40 (Interstate Hwy 70) (except those in St. Louis, MO, commercial zone); (2) from Minneapolis, MN, to points in IA, and (3) between Minneaplis, MN, on the one hand, and, on the other, those points in IL on and north of US Hwy 40 (Interstate Hwy 70) (except those in St. Louis, MO, commercial zone).

Note.—Parts (A) and (B) of the authority granted herein shall not be severable by sale or otherwise. Applicant intends to tack the rights sought to its existing authority. The purpose of this application is to substitute single-line for joint line operations.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36348 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Construction—Tongue River Railroad

AGENCY: Interstate Commerce Commission (ICC), Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Request for suggestion from the public on alternative rail alignments which might be considered in the Tongue River Railroad Draft Environmental Impact Statement (DEIS).

SUMMARY: The Interstate Commerce Commission's Energy and Environment Branch (EEB) is supervising preparation of the DEIS for the proposed Tongue River rail line. Preparation of the DEIS involves indentification of alternative alignments to that proposed by the applicant for comparative analysis in the DEIS. As part of this process, suggestions on alternative alignments are being solicited from members of the public and interested organizations. The EEB will consider all alignments suggested and will determine which of the suggested alignments appear most feasible for consideration in the DEIS.

Interested persons or organizations are invited to place alignments on maps available at: (1) The City-County Planning Board at 516 Main Street in Miles City, MT; and (2) the Northern Cheyenne Tribal Planning Office at the Tribal Building in Lame Deer, MT. The maps should be returned to either location by December 1, 1980. Maps returned to either location after this date will not be accepted. Instructions for drawing the alignment will be available with the maps. Previously submitted alignment suggestions utilizing other types of maps will also be considered.

FOR FURTHER INFORMATION CONTACT: Carole Dawkins, Room 5380, Energy and Environment Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7916.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36350 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-9 (Sub-No. 14F)]

St. Louis-San Francisco Railway Co.—Abandonment—in Ottawa County, OK, and Cherokee County, KS; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of the industrial lead track extending from railroad milepost LB-175.23 near Miami, OK, to railroad milepost LB-183.87 near Treece, KS, a distance of approximately 8.64 miles, in Ottawa County, OK, and Cherokee County, KS. A certificate of public convenience and necessity permitting abandonment was issued to the St. Louis-San Francisco Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to

§ 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36347 Filed 11-20-80; 8:45am]

BILLING CODE 7035-01-M

[Finance Docket No. 29409]

Wolfeboro Railroad Associates—Petition for Exemption From Filing an Application To Acquire and Operate a Railroad Line and From Filing an Application To Issue Securities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: In Docket No. AB-208F, *Wolfeboro Rail Road Co., Inc.—Entire Line Abandonment Near Sanbornville At Wolfeboro, in Carroll County, NH* (not printed), decided September 24, 1979, the Commission issued a certificate and decision authorizing abandonment of the entire 12-mile line. In November, 1979, a limited partnership, Wolfeboro Railroad Associates (Associates) purchased the stock of Wolfeboro Rail Road Co., Inc. (Wolfeboro) intending to reinstitute the tourist and freight services which Wolfeboro had previously provided. On July 3, 1980, Associates filed a petition for exemption from: (1) 49 U.S.C. 10901, which requires prior Commission approval for the acquisition and operation of the railroad line; and (2) 49 U.S.C. 11301, which requires Commission approval of all issuances of securities and assumptions of obligations by railroads.

DATES: Comments must be received on or before December 22, 1980.

ADDRESS: Send an original and 12 copies of all comments to: Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, DC 20423. All written statements will be available for public inspection during regular business hours at the same address. Comments should refer to Finance Docket No. 29409.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION: By petition filed July 3, 1980, Associates requests exemption under 49 U.S.C. 10505: (1) From the provisions of 49 U.S.C. 10901, with respect to acquisition and operation of railroads; and (2) from 49 U.S.C. 11301, with respect to issuing securities and assumption of liabilities by railroads.

In 1973, Wolfeboro acquired the 12-mile line between Wolfeboro and Sanbornville, NH, intending to attract primarily tourist patronage. The attempt failed and the Commission authorized abandonment of the entire line in Docket No. AB-208F. *Wolfeboro Rail Road Co., Inc.—Entire Line Abandonment Near Sanbornville at Wolfeboro, In Carroll County, NH* (not printed), decided September 24, 1979. No steps have been taken to effect abandonment.

In November 1979, Associates purchased all of the stock of Wolfeboro, acquired certain related lands, assumed certain liabilities, and subsequently leased all of the railroad's real estate and operating equipment in order to resume operations.

Associates is a limited partnership with two general partners (WMC, Inc. and Wolfeboro Railroad Management Corp.) and 20 individual limited partners. Associates believes that the limited partnership form of association enhances its ability to build the railroad into a profitable operation. It further believes that the timetable and cost of filing applications under §§ 10901 and 11301 to accomplish the change in legal form (from the existing corporation to a limited partnership) are too long and too burdensome for it to bear as a small business attempting to get started.

Associates maintains that the circumstances surrounding its activities meet the criteria for exemption under § 10505. It argues that the two matters sought to be exempted are very limited in scope. No public offering is involved and the shares will be sold only to 2 general and 20 limited partners for a total consideration of $660,000. The railroad itself is only 12 miles long and has only one connection, with the Boston & Maine Corporation at Sanbornville. The nature and volume of service to be provided is allegedly such that it will have little, if any, impact on national transportation. The public interest in this proceeding, according to Associates, will extend no further than the local communities (which hoipe to benefit from tourism) and two local businesses (which hope to use the railroad for freight service). The public, according to petitioner, would actually benefit from speedy Commission action through granting the exemptions.

These circumstances present a situation of limited impact which appears to be appropriate for exemption from Commission regulation. Operationally, the area served and services provided by petitioners are quite limited. The legal ramifications of the proposal are also relatively minor because Associates essentially proposes to step into Wolfeboro's shoes. The only real change is to the limited partnership form of doing business.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505 if it: (1) Is of limited scope; (2) is not necessary to carry out the transportation policy of 49 U.S.C. 10101; (3) would be an unreasonable burden; and (4) would serve little or no useful public purpose.

Before considering an exemption we are required to provide the opportunity for a proceeding. This request for comments on the proposed exemptions of the involved transaction is that opportunity. All comments filed, along with petitioner's application, will be used to determine whether either of the exemptions should be granted, in whole or in part.

All persons filing comments in this proceeding are required to serve one copy on petitioner's representatives: John Cunningham, Michael Joseph, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, DC 20006.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553 and 559.

This proceeding is not a major federal action significantly affecting the quality of the human environment or energy consumption.

Dated: November 6, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36349 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Acme-Cleveland Corporation, 802 Bond Court Building, P.O. Box 5617, Cleveland, OH 44101.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective prinicipal offices:

(a) Acme-Cleveland Transportation Company, 6900 Lake Abram Road, Middleburg Heights, OH 44140.

(b) The Cleveland Twist Drill Company, 1242 East 49th Street, P.O. Box 6656, Cleveland, OH 44101.

(c) LaSalle Machine Tool, Inc., 999 West Big Beaver Road, Troy, MI 48084.

(d) Hillyer Corporation, 244 Sheffield Street, Mountainside, NJ 07092.

1. Parent corporation and address of principal office: Ashland Coal, Inc., P.O. Box 6300, Huntington, West Virginia 25771.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Appalachian Transport, Inc., P.O. Box 6100, Huntington, West Virginia 25771.

(b) Addington Brothers Mining, Inc., P.O. Box 6100, Huntington, West Virginia 25771.

(c) Kentucky King Coal, Inc., P.O. Box 6100, Huntington, West Virginia 25771.

(d) Paula Coal Company, Inc., P.O. Box 6100, Huntington, West Virginia 25771.

1. Parent corporation and address of principal office: Atlantic Richfield Company, 515 Flower Street, Los Angeles, CA 90071.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) ARCO Performance Chemicals Company, Inc., 1500 Market Street, Philadelphia, PA 19101.

(b) ARCO Polymers, Inc., 1500 Market Street, Philadelphia, PA 19101.

(c) The Anaconda Company, 555 17th Street, Denver, Colorado 80202.

1. The parent company address is: Federated Department Stores, Inc., 7 West Seventh Street, Cincinnati, OH 45202.

2. The wholly owned divisions which are participating in this operation are as follows:

Abraham and Straus, 420 Fulton Street, Brooklyn, NY 11201.

Bloomingdale's, 1000 Third Avenue, New York City, NY 10022.

Boston Store, 331 West Wisconsin Avenue, Milwaukee, WI 53203.

Bullock's, Broadway, 7th & Hill, Los Angeles, CA 90014.

Bullock's Northern California, Executve & Administrative Offices, Administration Service Center, 135 Constitution Drive, P.O. Box 2007, Menlo Park, CA 94025.

Burdines, 22 East Flagler, Miami, FL 33131.

Filene's, 426 Washington Street, Boston, MA 02101.

Foley's, 1110 Main Street, P.O. Box 1971, Houston, TX 77001.

Gold Circle Stores, P.O. Box 63, 6121 Huntley Road, Worthington, OH 43085.

Goldsmith's, 123 South Main, P.O. Box 449, Memphis, TN 38143.

Gold Triangle Stores, 4600 West 18 Court, Hialeah, FL 33012.

Lazarus, Town and High Streets, Columbus, OH 43216.

Levy's, El Con, P.O. Box 27447, Tucson, AZ 85726.

I. Magnin, 135 Stockton St. at Union Square, San Franciso, CA 94108.

Ralph's Grocery Company, P.O. Box 54143, Los Angeles, CA 90054.

Rich's, 45 Broad Street, S.W., P.O. Box 4539, Atlanta, GA 30302.

Richway Stores, 45 Broad Street, P.O. Box 50359, Atlanta, GA 30302.

Rike's, Second and Main Streets, Dayton, OH 45401.

Sanger Harris, 303 North Akard and Pacific, Dallas, TX 75222.

Shillito's, Seventh and Race Streets, Cincinnati, OH 45202.

1. Parent corporation and address of principal office: Giddings & Lewis, Inc., 142 Doty Street, Fond du Lac, WI 54935.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. The Osborn Manufacturing Corporation, 5401 Hamilton Avenue, Cleveland, OH 44114.

b. Pressed Steel Tank Co., Inc., 1445 S. 66th Street, Milwaukee, WI 53214.

c. Jackson Buff Corporation, Conover, North Carolina 28613.

d. Lee Cylinders, Inc., 610 E. Church Street, Cambridge City, Indiana 47327.

e. Cego, Inc., 610 E. Church Street, Cambridge City, Indiana 47327.

1. Parent corporation: Kaiser Aluminum & Chemical Corporation, 300 Lakeside Drive, Oakland, California 94643.

2. Wholly-owned subsidiary company which will participate in intercorporate compensated hauling:

Far Best Corporation, 6715 McKinley, Los Angeles, California 90007.

Far Best Corporation, Plum Street, Verona, PA 15147.

Far Best Corporation, 1401 Greenleaf Street, Elk Grove Village, IL 60007.

1. Parent Corporation: Kelley Industries, Inc., 4520 First International Plaza, 1100 Louisiana, Houston, Texas 77002.

2. Wholly Owned Subsidiaries:

(1) Kelley Manufacturing Company, 4800 Clinton Drive, Houston, Texas 77020; 10745 Marina Drive, Olive Branch, Mississippi 38654; 5100 Santa Fe Avenue, Los Angeles, California 90058.

(2) Shoreline Supply Company, 9111 Glesby, Houston, Texas 77029; 3900 W. Loop 338, Odessa, Texas 79760; 1100 W. Marland, Hobbs, New Mexico; 1803 W. Cotton, Longview, Texas 75607; 1100 Commercial Drive, Port Allen, Louisiana 70767; 3721 S. Prospect, Oklahoma City, Oklahoma 73143.

1. Parent corporation and address of principal office: Orgill Brothers Corporation, P.O. Box 140, Memphis, Tennessee 38101.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Orgill Brothers & Co., Inc., P.O. Box 140, Memphis, Tennessee 38101.

(b) The Jordan Companies, P.O. Box 18377, Memphis, Tennessee 38118.

(c) Ben Edwards Furniture Co., Inc., P.O. Box 68, Memphis, Tennessee 38101.

Parent corporation and address of principal office: Philip Morris Incorporated, 100 Park Avenue, New York, New York 10017.

Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Philip Morris Industrial Incorporated, P.O. Box 294, 422 North Holton Street, Milwaukee, Wisconsin 53201.

(b) Plainwell Paper Co., Inc., 200 Allegan, Plainwell, Michigan 49080.

(c) Wisconsin Tissue Mills Inc., P.O. Box 489, Third Street, Menasha, Wisconsin 54952.

(d) Miller Brewing Company, 3939 West Highland Boulevard, Milwaukee, Wisconsin 53208.

(e) Crescent Distributing Company, 201 Evans Road, Harahan, Louisiana 70123.

(f) Miller Brands, Inc., 450 North Oak Street, Inglewood, California 90302.

(g) River Distributing Company, Inc., R.D. 2, Noxon Road, Poughkeepsie, New York 12603.

(h) Star Distributing Company, Inc., P.O. Box 26247, Salt Lake City, Utah 84126.

(i) Waterloo Malting Company, P.O. Box 67, Waterloo, Wisconsin 53594.

(j) The Seven-Up Company, 121 South Meramec, St. Louis, Missouri 63105.

(k) Seven-Up Bottling Company of Houston, Texas, 3310 Alice Street, Houston, Texas 77021.

(l) Seven-Up Bottling Company of Norfolk, Incorporated, 1012 West 26th Street, Norfolk, Virginia 23517.

(m) Seven-Up Bottling of Phoenix, Inc., 3830 East Weir, Phoenix, Arizona 85040.

(n) Seven-Up Bottling Company of Albuquerque, 2101 Claremont Avenue, N.E., Albuquerque, New Mexico 87107.

(o) The Taylor Group, Inc., 555 Brown Road, Hazelwood, Missouri 63042.

(p) Seven-Up Canada Inc., No. 12 Cranfield Road, Toronto, Ontario, Canada M4B3G8.

1. Parent corporation: Revere Copper and Brass Incorporated, P.O. Box 191, Rome, NY 13440.

2. Divisions and wholly owned subsidiaries which will participate in the operations are as follows:
Brooklyn Foil Division, 196 Diamond St., Brooklyn, NY 11222.
Clinton Division, P.O. Box 250, Clinton, IL 61727.
Oneonta Plant—P.O. Box 340, Oneonta, AL 35121.
Edes Manufacturing Division, P.O. Box 477, Plymouth, MA 02360.
Newport Foil Division, Highway 67 North, Newport, AR 72112.
Rome Manufacturing Company Division, P.O. Box 111, Rome, NY 13440.
Revere Copper and Brass Inc., Omal, OH.
Scottsboro Aluminum Reduction Division, P.O. Box 1050, Scottsboro, AL 35768.
Scottsboro Aluminum Sheet Division, P.O. Box 788, Scottsboro, AL 35768.
Revere Copper Products, Inc., P.O. Box 300, Rome, NY 13440.
Revere Research, Inc., P.O. Box 151, Rome, NY 13440.
Revere Extruders, Inc., P.O. Box 731, Pomona Blvd., Pomona, CA 91766.
Revere Foil Containers, Inc., P.O. Box 168, Industrial Pk., Shelbyville, KY 40065.
Revere Solar & Architechtural Products, Inc., P.O. Box 967, Kenly, NC 27542.
John I. Paulding, Inc., P.O. Box B–952, Kings Highway, New Bedford, MA 02741.
North American Aluminum Corp., 5575 N. Riverview Dr., Kalamazoo, MI 49004.
Wells Aluminum Corp., P.O. Box 1496, 400 S. Main St., North Liberty, IN 46554.
Wells Aluminum, Inc., 808 County Road, Monett, MO 65708.
Wells Aluminum Moultrie, Inc., Route 2, Industrial Pk., Moultrie, GA 31768.
Wells Aluminum Southeast, Inc., P.O. Box 627, Blake Dairy Rd., Belton, SC 29627.

The proposed participating corporations are:

1. Parent Corporation: Peter J. Schmitt Co., Inc., 678 Bailey Avenue, Buffalo, New York 14206.

2. Wholly-owned subsidiary: Z & W Foods, Inc., 755 Bailey Avenue, Buffalo, New York 14206.

1. Parent Corporation: Southwest Distributing Company, 229 Lomas Blvd., N.E., Albuquerque, N.M. 87102.

2. Wholly-owned subsidiary: Thunderhead Oil & Gas Company (MC–134032), 2030 Second Street, S.W., Albuquerque, N.M. 87103.

1. Parent Corporation and address of principal office: Stanadyne, Inc., 100 Deerfield Road, Windsor, Connecticut 06145.

2. Wholly-owned subsidiary which will participate in the operations, and address of its respective principal office: Zeigler Harris Inc., Road #1, Pine Grove, Pennsylvania 17963.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36482 Filed 11–20–80; 8:45 am]

BILLING CODE 7035–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

International Development Cooperation Agency

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on December 9 (from 9:00 a.m. to 6:00 p.m.) and December 10 (from 9:00 a.m. to 1:00 p.m.), 1980, at the Sheraton Washington, 2660 Woodley Road, N.W., Washington, D.C. 20008.

The agenda will deal primarily with development education: what it is, who does it, what should it be, what is an appropriate role for government agencies and voluntary agencies in development education. The Committee will also begin to make plans for its meetings in 1981.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202–632–0108, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: November 14, 1980.

Calvin H. Raullerson,

Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 80–36303 Filed 11–20–80; 8:45 am]

BILLING CODE 4710–02–M

[Redelegation of Authority No. 99.1.65, Amendment No. 3]

Mission Director, USAID/Bangladesh; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.65 dated January 2, 1975 (40 FR 2596) as follows:

The first paragraph subhead 1 is revised to read as follows:

"1. U.S. Government contracts, grants (other than grants to foreign Governments or Agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $100,000 or local currency equivalent."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on November 10, 1980.

Dated: November 13, 1980.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 80–36302 Filed 11–20–80; 8:45 am]

BILLING CODE 4710–02–M

Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the Meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on December 8 and 9, 1980.

The purpose of the meeting is to receive reports from the following working groups: Regional, JCAD Guidelines, Registry of Institutional Resources, Professional Personnel Roster, Women in Development; to discuss revision of JCAD guidelines and formation of working group on training.

The meeting on December 8, 1980 will convene from 9:00 a.m. to 12:00 Noon in the form of Regional Work Groups—three work groups will be meeting: Latin America RWG in Room 2242 New State Department Building (Mr. Albert L. Brown, A.I.D. Federal Designee for this meeting can be contacted at (202/632–8126); Near East RWG in Room 6484 New State Department Building (Mr. Keith Sherper, A.I.D. Federal Designee for this meeting can be contacted at (202/632–9256); and the Asia RWG in Room 609 Rosslyn Plaza "C" Building, 1601 North Kent Street, Rosslyn, Virginia (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be

contacted at (703/235–8870). The Full JCAD Committee will convene on December 8 from 1:00 to 4:30 p.m. at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Arlington, Virginia 22209. The Full JCAD Committee will meet also on December 9 from 9:00 to 12:30 p.m. at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Arlington, Virginia 22209. The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permit.

Mr. John C. Rothberg, BIFAD Support Staff, is designated A.I.D. Advisory Committee Representative at the December 8 and 9 meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (202) 632–7937.

Dated: November 17, 1980.

John C. Rothberg,

A.I.D Advisory Committee Representative, Joint Committee on Agricultural Development Board for International Food and Agricultural Development.

[FR Doc. 80-36386 Filed 11-20-80; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Sections 10(a), (2), Pub. L. 92–463, Federal Advisory committee Act, notice is hereby given of the thirty-sixth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on December 9 and 10, 1980.

The purpose of the meeting is to: review the Sorghum/Millet CRSP and the Integrated Crop Protection Planning CRSP; review Proceedings of JRC Workshop on CRSP experience; consider specific issues in planning and implementing CRSP's; consider needs for exploratory studies for identification of research needs; consider research needs on animal health; consider types of possible research involvement with international centers in Title XII research; discuss education/training needs in LDC's in agriculture, nutrition, and rural development; discuss seminar recommendations on Women in Development; discuss research recommendations of the Research Advisory Committee; consider recommendations for research to alleviate food deficits in Africa; discuss ways to identify education and training needs in LDC's; and discuss JRC's projected mode of operation.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on December 9 and 10, 1980. The meeting will be held at the Holiday Inn, Dynasty Room, 1850 N. Fort Meyer Drive, Rosslyn, Virginia 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Mr. William F. Johnson, BIFAD Support Staff is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Department of State, Washington, D.C. 20523 or telephone him at (202) 632–7935.

Dated: November 17, 1980

William F. Johnson,

A.I.D. Advisory Committee Representative, Joint Research Committee Board for International Food and Agricultural Development.

[FR Doc. 80-36387 Filed 11-20-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-90]

Certain Airless Paint Spray Pumps and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 8, 1980, and amended October 22, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Wagner Spray Tech Corp., 1770 Fernbrook Lane, Minneapolis, Minn. 55440. The amended complaint (hereinafter referred to as the complaint) alleges unfair methods of competition and unfair acts in the importation into the United States of certain airless paint spray pumps and components thereof, or in their sale, because such pumps are allegedly covered by claims 1, 22, and 23 of U.S. Letters Patent 3,254,845, claims 12 and 19 of U.S. Letters Patent 3,367,270, and claims 40, 41, and 42 of U.S. Letters Patent Re 29,055. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation; conduct an expedited hearing for the purpose of determining whether there is reason to believe that there is a violation of section 337; upon the conclusion of said expedited hearing, issue both a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, during the investigation and a temporary cease and desist order with respect to domestic sales and promotion of stockpiled imports; and, after a full investigation, issue an order permanently forbidding entry of the articles in question into the United States.

Having considered the complaint, the Commission, on November 6, 1980, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain airless paint spray pumps, components thereof, and airless paint spray equipment containing said pumps into the United States, or in their sale, by reason of the alleged coverage of such pumps by claims 1, 22 and 23 of U.S. Letters Patent 3,254,845, claims 12 and 19 of U.S. Letters Patent 3,367,270, and claims 40, 41, and 42 of U.S. Letters Patent Re 29,055, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Wagner Spray Tech Corp., 1770 Fernbrook Lane, Minneapolis, Minn. 55440.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint is to be served:

Larius DiCastagna and C., S.N.C., Ltd., Via Perviotti 11, Lecco, Italy.

Imperial Paint Applicators, Ltd., 4 Station Road, Irvington, N.Y. 10533.

Karmichael Industries, Ltd., 4 Station Road, Irvington, N.Y. 10533.

Simco Bush Tool Corp., 4 Station Road, Irvington, N.Y. 10533.

c. Talbot S. Lindstrom, Chief, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall name the Commission investigative attorney, a party to this investigation;

3. For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer; and

4. With respect to the complainant's request for expedition of the temporary relief hearing, action on such request is deferred to the presiding officer.

The phrase "and airless paint spray equipment containing said pumps" has been added to paragraph (1) above on the basis of informal investigatory activities by the Commission which revealed that the pumps of the type alleged to infringe the aforesaid claims of said respective letters patents can be imported as airless paint spray pumps, components thereof, and as a part of airless paint spray equipment.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: November 17, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36312 Filed 11-20-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Advisory Board; Meeting

The Bureau of Justice Statistics Advisory Board will meet on December 12 and 13, 1980 at the Sheraton National Hotel in Arlington, Virginia. Friday's session will be from 8:30 a.m. until 5:45 p.m. Saturday's session will be from 8:30 a.m. until 12:30 p.m.

This will be the Board's initial meeting. It will elect a Chairman and Vice-Chairman and will adopt rules and procedures to govern its organization and functions. The agenda will also include briefing the Board on the mandate, current programs and program plans of the Bureau and presentation of the major issues which the Bureau faces.

The meeting will be open to the public. The meeting room will be accessible to the handicapped.

Minutes of the proceedings will be available upon request 30 days after the meeting.

Inquiries may be addressed to Sally G. Willis, Bureau of Justice Statistics, Washington, D.C. 20531. Telephone: (301) 492-9045.

Harry A. Scarr,

Director, Bureau of Justice Statistics.

November 13, 1980.

[FR Doc. 80-36291 Filed 11-20-80; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1980 aggregate production quota.

SUMMARY: This notice establishes a 1980 aggregate production quota for tetrahydrocannabinols, a Schedule I substance, as required under the Controlled Substances Act of 1970.

EFFECTIVE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On October 2, 1980, a notice of the proposed 1980 aggregate production quota for tetrahydrocannabinols was published in the Federal Register (45 FR 65368). All interested parties were invited to comment on or object to this proposed aggregate production quota on or before November 4, 1980. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1980 aggregate production quota for tetrahydrocannabinols be established at 5,000 grams.

Dated: November 17, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-36414 Filed 11-20-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

In FR Doc. 80-34496, appearing at page 74310 in the issue of Friday, November 7, 1980, the following pages were partially unreadable due to a technical problem and are reprinted without change below:

BILLING CODE 1505-01-M

DECISION # AK80-5130 Mod. # 1
(45 FR 64040 September 26, 1980)

STATEWIDE, ALASKA CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$22.67	.78	1.45		.10
Carpenters					
Areas 2 and 3					
Piledriverman	17.99	.90	3.00		.20
Electricians:					
Electricians, Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Residential Electricians	11.25	1.30			.10
Elevator Constructors	22.445	1.195		a	.35
Ironworkers	20.25	1.35	3.00		.30
Lathers	21.14	1.10			.04
Line Construction:					
Groundman, Powderman	19.15	1.65	3%+3.00		.25
Equipment Operators, Lineman, and Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Material Handlers	14.55	1.65	3%+3.00		.25
Power Equipment Operators:					
Group 1	18.30	1.20	3.00		.15
Group 1A	19.43	1.20	3.00		.15
Group 2	17.81	1.20	3.00		.15
Group 3	17.35	1.20	3.00		.15
Group 4	16.33	1.20	3.00		.15
Power Equipment Operators-Dredging:					
Group 1	16.33	1.20	3.00		
Group 2	17.35	1.20	3.00		
Group 3	17.81	1.20	3.00		
Group 4	18.30	1.20	3.00		
Group 5	19.43	1.20	3.00		
Survey Crews:					
Instrumentman	16.35	1.99	3.00		.20
Head Chainman	15.80	1.99	3.00		.20
Stakehop	15.80	1.99	3.00		.20
Rear Chainman	15.12	1.99	3.00		.20

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DECISION #AR80-4080-Mod.#1
45 FR October 31, 1980
Jefferson County, Arkansas

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
Plumbers-Pipefitters	13.25	.90	.60		.10
Roofers	10.71		.30		
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

DECISION #AR80-4083-Mod.#1
45 FR Oct. 31, 1980
Pulaski County, Arkansas

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
PLUMBERS-PIPEFITTERS:					
Within 10 mile radius of Pulaski Co. Courthouse	13.20	.85	.85		.08
Over 10 miles of Pulaski County Courthouse	13.50	.85	.85		.08
POWER EQUIPMENT OPERATORS					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05
Roofers	10.71		.30		

DECISION NO. CO80-5137 - Mod. #1
(45 FR 70577 - Oct. 24, 1980)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers, Stonemasons:					
Boulder and Grand Counties	$ 12.15	.85	1.10		.06
Lathers	13.44				.01
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				
Plumbers, Steamfitters:					
Southern portions of Douglas, Elbert and Park Counties	12.90	.85	1.15	1.60	.10
Roofers:					
Remaining Counties, including northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	12.57	.80	.25		.08
Soft floor layers	12.39	.80	1.05	.75	.10
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	

DECISION NO. CO80-5138 - Mod. #1
(45 FR 70682 - Oct. 24, 1980)
El Paso County, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement Masons:					
Cement masons	$12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
Electricians	13.90	.75	3% + .65		.015
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01
Soft floor layers	12.39	.80	1.05		.10

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DECISION NO. CO80-5139 - Mod. #1
(45 FR 70686 - Oct. 24, 1980)
Delta, Garfield, Gunnison, Mesa Montrose and Pitkin Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers and Stonemasons:					
Remaining Counties	$11.90	.85	.85		.05
Cement Masons:					
Cement masons	12.04	.59	1.15		.13
Working with composition material and color	12.54	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.29	.59	1.15		.13
Lathers:					
Garfield, Mesa and Pitkin Counties	13.44				
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01

DECISION NO. CO80-5140 - Mod. #1
(45 FR 70691 - October 24, 1980)
Las Animas, Otero and Pueblo Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Millwrights	$12.66	1.00	.85		.14
Plasterers	13.44				
Soft Floor Layers:					
Las Animas & Otero Counties	12.39	.80	1.05	.75	.10

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: Bossier, Caddo & Calcasieu

DECISION NO. LA80-4089

DATE: Date of Publication

Supersedes Decision No. LA80-4039, dated May 23, 1980 in 45 FR 35136

DESCRIPTION OF WORK: Residential 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.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$12.99	.70	1.00		.03
Calcasieu Parish	13.32	.775	1.18		.04
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	11.30	.55	.65		.05
Calcasieu Parish	13.50	.63	.85		
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	11.10	.55	.50		.04
Millwrights	11.85	.55	.50		.04
Piledrivermen	11.35	.55	.50		.04
Calcasieu Parish:					
Carpenters and Pile-drivermen	12.51	.80	.33		.07
Millwrights	14.41				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	10.50	.45			
Calcasieu Parish	12.53				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
Calcasieu Parish:					
Electricians	14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	11.66	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
Calcasieu Parish:					
Mechanics	10.575	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
GLAZIERS:					
Bossier & Caddo Parishes	9.88		.30		.04
Calcasieu Parish	12.25			c+d	.02
IRONWORKERS:					
Bossier & Caddo Parishes	12.45	.45	.90		.06
Calcasieu Parish	12.88	.60	.65		.05

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DECISION NO: LA80-4089

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Laborers	$ 7.53	.25	.27		.05
GROUP 2					
Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	7.63	.25	.27		.05
GROUP 3					
Mortar mixers	7.68	.25	.27		.05
GROUP 4					
Air jacks, vibrators; sewer pipe layers and wipers	7.73	.25	.27		.05
Calcasieu Parish:					
GROUP 1					
Building & general laborers; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	8.88	.25	.27		.05
GROUP 2					
Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment	8.98	.25	.27		.05
GROUP 3					
Mortar mixers	9.03	.25	.27		.05
GROUP 4					
Jackhammer operators	9.13	.25	.27		.05
GROUP 5					
Blasterers	9.84	.25	.27		.05
GROUP 6					
Blaster tenders; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	9.40	.25	.27		.05
GROUP 7					
Wipe joints, laying pipe & tile from pumpcrete	9.24	.25	.27		.05
GROUP 8					
Interior or closed tanks & vessels manually	8.93	.25	.27		.05

STATE: Texas COUNTY: Harrison
DECISION NO.: TX80-4088 DATE: Date of Publication
Supersedes Decision No. TX79-4032, dated March 16, 1979. in 44 FR 16325.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	11.75		.50		
CARPENTERS	6.59				
CEMENT MASONS	8.00				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.15				
IRONWORKERS	6.88				
LABORERS:					
Laborers	3.21				
Mason tenders	4.15				
Plasterers' tenders	4.75				
LATHERS	8.95	.40	.20		
PAINTERS:					
GROUP 1 - Journeymen painters, paperhangers, hand rollers & tools used for cleaning	5.155				
GROUP 2 - Window jack or window sill; sand tape & floating	5.275				
GROUP 3 - Swing stage; spray & sandblasting; sign painting; steel swing stage, boatswain's chair brush	5.65				
GROUP 4 - Steam cleaning, buffing, burners & torch	6.90				
GROUP 5 - Steel brush	5.40				
GROUP 6 - Steel swing stage, boatswain's chair, spray & sandblasting	7.65				
PLASTERERS	8.075				
PLUMBERS & PIPEFITTERS	7.60				
ROOFERS	8.10				
SHEET METAL WORKERS	10.425	.50	.66		.105
SPRINKLER FITTERS	13.71	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. TX80-4088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.765	.65	1.00		.15
GROUP 2	11.53	.65	1.00		.15
GROUP 3	11.93	.65	1.00		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment
GROUP 3 - Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Mixer-mobile; Locomotives; Mixer, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derrick, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixer (all types); Pile drivers; Mobile concrete mixers over 14 cu. ft.; Bulldozers, loaders, tractovators; Scrapers and pulls ; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressors & one pump; Pump, three or more; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic

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: Texas COUNTY: Grega
DECISION NO.: TX80-4087 DATE: Date of Publication
Supersedes Decision No. TX79-4035, dated September 28, 1979, in 44 FR 56108.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS	12.10		.45		.05
CARPENTERS:					
Carpenters	10.60				.015
Millwrights	13.25				.015
Piledrivermen	11.10				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' FINISHERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine ops.	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
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)).

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SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler
DECISION NO. TX 80-4085 DATE: Date of publication
Supersedes Decision No. TX80-4001, dated Jan. 4, 1980 in 45 FR 1376
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving and Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$11.95	.80	1.25		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	12.60		.80		
CARPENTERS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Carpenters	12.20		.50		.01
Millwrights	12.55		.50		.01
Zone 2 - Childress Co.:					
Carpenters	11.85	.48	.60		.10
Millwrights	12.35	.48	.60		.10
CEMENT MASONS	11.40				
ELECTRICIANS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Electricians	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Zone 2 - Childress Co.:					
Electricians	12.10	.60	3%		1/10
Cable Splicers	12.35	.60	3%		1/10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GLAZIERS	$ 7.90			a	
IRONWORKERS:					
Zone 1: Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties	12.10	.55	1.40		.10
Zone 2: Childress County (southeastern 1/4)	10.825	.55	1.40		.10
LABORERS:					
Group 1: General or Construction Laborers	6.82	.63	.40		
Group 2: Air or electric tool operators, jackhammers, vibrator tampers chipping hammers, pipe wrappers, kettleman, asphalt rakers, sand blasterers, pot-tenders, riprap stone pavers, cutting torch operators (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader and placer, chuck tenders, timberman, collapsible form setters, concrete power buggy operators; carpenter tenders, pipe layers: main, sewer and drainage; make-up man, powderman and blasters; gunite ops. or concrete operators	6.97	.63	.40		
LATHERS	12.15				.01

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BILLING CODE 1505-01-C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LINE CONSTRUCTION:					
Zone 1 - Childress County:					
Lineman; Operators	$12.10	.60	3%		1/2%
Cable Splicers	12.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
Zone 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Lineman	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Groundman	7.66	.60	3%+.50		1/2%
Operator - hole digger, line truck	8.91	.60	3%+.50		1/2%
Flat bed truck driver	6.72	.60	3%+.50		1/2%
MARBLE MASONS (EXTERIOR)	12.60		.80		
PAINTERS:					
Group 1 - Brush and Roller; Paperhangers; Perfa-tapers	9.95		.50		
Group 2 - Structural steel; Swinging stage or chair below 50 ft.	10.07		.50		
Group 3 - Spray and Sandblasters	10.70		.50		
Group 4 - Perfa-tape machine operator	10.20		.50		
PLASTERERS	12.15				.01
PLUMBERS & PIPEFITTERS	11.90	.50	.65	1.06	

Mine Safety and Health Administration

[Docket No. M-80-141-C]

BRT Collieries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BRT Collieries, Inc., Virgie, Kentucky 41572, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the installation of lighting fixtures on the mine's roof bolting machines.

2. Petitioner states that installation of lighting fixtures on the mine's roof bolting machines would result in a diminution of safety to the miners affected because the lights:

a. Cause eye strain for the miners as they travel from dark to lighted areas of the mine;

b. Limit the vision of the machine operator past the glow of the lights; and

c. Reduce the effectiveness of the miners' cap lamps.

3. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These 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. All comments must be postmarked or received in that office on or before December 22, 1980. Copies of the petition are available for inspection at that address.

Dated: November 13, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-36407 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Appointment of Members

This is to announce the appointment of members to the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The membership of the Committee and the categories represented are as follows:

Employee

Joe A. Adam, Director, Department of Safety and Health, United Association of Journeymen & Apprentices of the Plumbing and Pipe Fitting Industry, 901 Massachusetts Avenue, NW., Washington, D.C. 20001.

Robert E. P. Cooney, General Vice President, International Assoc. of Bridge Structural and Ornamental Iron Workers, 400 First Street, NW., Washington, D.C. 20001.

Robert Farrell, Safety Director, International Union of Operating Engineers, 6200 Joliet Road, Countryside, IL 60525.

Roy Steinfurth, Administrator, Health Hazard Programs, International Association of Heat & Frost Insulators & Asbestos Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.

Charles H. Tupper, Director, Safety Dept., International Brotherhood of Electrical Workers, 1125 Fifteenth Street, NW., Washington, D.C. 20005.

Employer

Harry Carr, President—Chief Executive, H. Carr & Sons, Inc., 85 Aldrich Street, Providence, RI 02905.

Alan Hollingsworth, Safety Supervisor, S. J. Groves & Sons Inc., Box 2009, Springfield, IL 62705.

George Goldberg, Vice President, Industrial Relations, Stanley Structures, Three Park Central, 1515 Arapahoe Street, Denver, CO 80202.

Carl Melin, Vice President, Industrial Relations, Chicago Bridge & Iron Company, 800 Jorie Boulevard, Oakbrook, IL 60521.

James Pakenham, Safety Manager, Ebasco Services, Inc., 2 Rector Street, New York, NY 10006.

State

Mark R. Melchiori, Acting Chief of the Safety and Standards Division, Bureau of Michigan Department of Labor, 7150 Harris Drive, Lansing, MI 48909.

Michael M. Schneider, Deputy Chief for Safety, California's Division of Occupational Safety and Health, 455 Golden Gate Avenue, San Francisco, CA.

Federal

Stanley J. Reno, Regional Consultant for Occupational Safety & Health—National Institute for Occupational Safety & Health, 1961 Stout Street, Denver, CO 80294.

Public

H. Edgar Lore, Labor Relations Consultant, Sycamore Road, R.D. #5, Sevickley, PA 15143.

Dr. Jack L. Mickle, Professor of Civil Engineering, Iowa State University, Ames, IA 50015.

The members were selected on the basis of their experience and competence in the field of construction safety and health and will serve until June 30, 1982. Mr. Stanley J. Reno will serve as Committee Chairman.

Signed at Washington, D.C. this 13th day of November 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-36406 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-9051]

Bethlehem Steel Corp., Sparrows Point, Maryland; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act mut be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(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.

The investigation was initiated on June 30, 1980 in response to a petition received on June 11, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers at Bethlehem Steel Corporation, Sparrows Point, Maryland.

Workers at the Sparrows Point plant produce steel and steel products.

With respect to the production of plate, cold rolled sheet, galvanized sheet and rods, the investigation revealed that criterion (3) has not been met.

A Department of Labor survey revealed that none of the surveyed customers reduced purchases of plate from the Sparrows Point plant whle increasing purchases of imported plate in 1979 compared to 1978 or in the first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that none of Sparrow Points's customer increased their purchases of imported cold rolled sheet in 1979 compared to 1978 or in the first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that none of Sparrow Points's customers increase their purchases of imported galvanized sheet in 1979 compared to 1978 or in there first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that Sparrow Point's customers reduced their overall demand for rods from both domestic and foreign sources in 1979 compared to 1978 and in the first eight months of 1980 compared to the same period in 1979. Most of the surveyed customers did not purchase imported rods. In 1979 compared to 1978, none of the surveyed costomers reduced purchases from the Sparrows Point plant while increasing purchases of imported rods. In the first eight months of 1980 compared to the same period in 1979, the customers that increased purchases of imported rods did so by an amount that accounted for an insignificant portion of Sparrow Points's rod sales decline over those periods.

With respect to the production of pipe, all the criteria have been met.

U.S. imports of carbon steel pipe and tube increased both absolutely and relative to domestic shipments in the first half of 1980 compared to the first half of 1979.

A Department of Labor survey revealed that some customers reduced purchases of pipe from the Sparrows Point plant and increased purchases of imported pipe in the first eight months of 1980 compared to the same period in 1979.

The Department is in the process of obtaining additional information on Sparrow Point's production and sales of hot rolled sheet, wire and wire products and tin plate products. The findings for these products and for basic steelmaking at Sparrows Point will be issued in a separate determination.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the pipe produced at the Sparrows Point, Maryland plant of Bethlehem Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of Bethlehem Steel Corporation, Sparrows Point, Maryland, engaged in employment related to the production of pipe, who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

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

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-36403 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7444]

Firestone Tire and Rubber Co., Decatur, Ill.; Negative Determination on Reconsideration

On July 30, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing passenger car and truck tires at Firestone's Decatur, Illinois plant. This determination was published in the **Federal Register** on August 8, 1980, (45 FR 52968).

The union claimed in its application for reconsideration that the Department placed excessive reliance on its customer survey and made no mention in its denial of increased U.S. imports of passenger car and truck tires in 1979. The union further claimed that other workers at other URW-represented plants including workers at a Firestone plant in Salinas, California were certified for trade adjustment assistance within the last two years.

The Department's review of the investigative file showed that passenger car tire and truck tire workers at the Decatur, Illinois plant did not meet the "contributed importantly" test of the Trade Act of 1974. The review also showed that truck tire production at Decatur increased, in quantity, in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979. The Department's survey of Firestone's passenger car tire customers showed that the respondents' reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979. The Department's survey of Firestone's truck tire customers showed that they either did not import or decreased their imports of truck tires in 1979 compared to 1978 and in the first four months of 1980 compared to the same period in 1979. Customers who decreased purchases of truck tires from Firestone and increased imports represented an insignificant proportion of Firestone's truck tire sales and an insignificant proportion of Firestone's decline in sales in 1979 compared to 1978 and in the first four months of 1980 compared to the same period in 1979. In order for a worker group to become certified it must meet all three statutory criteria under Section 222 of the Trade Act including the "contributed importantly" test. The "contributed importantly" test is determined through a survey of the firm's customers. Truck tire workers at Decatur did not meet the decreased production or sales criterion nor the "contributed importantly" test while passenger car tire workers did not meet the "contributed importantly" test. Increased imports of passenger car and truck tires by themselves are not enough for the Department to grant certification.

The Department does not agree with the claim that its investigation of the Decatur worker group was conducted differently from other adjustment assistance investigations by the Department. 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 indicated contrary results in the Decatur case.

The Department notes that the certifications for the Salinas and South Gate worker groups 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 Decatur worker group is March 5, 1980. Company import data for passenger car tires in the Salinas and South Gate cases ran to November 1979 and July 1979, respectively; however the downward trend in company imports which began in the third quarter of 1979 was not yet ovvious at the time of these investigations. In the Decatur investigation the Department had company import data on passenger car tires through March 1980, which showed

clearly a significant decrease in company import activity.

U.S. aggregate import data at the time of the Salinas and South Gate investigations ran only through September and June 1979, respectively. These data showed that U.S. imports of passenger car tires increased both absolutely and relative to domestic production in the first six months and the first nine months of 1979 compared to the respective periods in 1978. However, U.S. aggregate import data for passenger car tires at the time of the Decatur investigation was showing an absolute decrease in the first six months of 1980 compared to the same period in 1979. Further, 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. 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 represented less than one-half of one percent of Firestone's total sales decline in 1979 and 1980. Although a two-part survey on Firestone's customers was conducted in the Salinas investigation, one including national accounts and the other local Western accounts the Department did not see fit to do this for the Decatur plant since it is the Department's understanding that Decatur's output is marketed nationally.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of the Decatur, Illinois plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C., this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36400 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7452]

Firestone Tire & Rubber Co., Des Moines, Iowa; Negative Determination on Reconsideration

On August 28, 1980, the Department made an Affirmative Determination regarding Application for Reconsideration for workers and former workers producing passenger car tires at the Des Moines, Iowa plant of the Firestone Tire and Rubber Company. This determination was published in the **Federal Register** on July 11, 1980, (45 FR 46932).

The union claimed in its application for reconsideration that the Department's investigation was not consistent with others conducted by the Department and that their private brand tire customers were not included in the Department's survey. The union did not seek reconsideration with respect to tractor-tire workers at Des Moines.

The Department's review of the investigative file showed that passenger car tire workers at the Des Moines, Iowa plant did not meet the "contributed importantly" test of the Trade Act of 1974. Only workers producing earthmover tires at Des Moines met all the statutory criteria for certification. The Department's survey of Firestone's passenger car tire customers showed that the respondent's reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979.

The Department does not agree with the claim that its investigation of the Des Moines worker group is inconsistent with others, especially the Salinas and South Gate, California investigations conducted by the Department. 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 indicated contrary results in the Des Moines case.

The Department notes that the certifications for the Salinas and South Gate worker groups 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 Des Moines worker group is March 3, 1980. Company import data for passenger car tires in the Salinas and South Gate cases ran to November 1979 and July 1979, respectively; however 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 Des Moines investigation the Department had company import data on passenger car tires through March 1980, which showed clearly a significant decrease in company import activity.

U.S. aggregate import data at the time of the Salinas and South Gate investigations ran only through September and June 1979, respectively. These data showed that U.S. imports of passenger car tires increased both absolutely and relative to domestic production in the first six months and the first nine months of 1979 compared to the respective periods in 1978. However, U.S. aggregate import data for passenger car tires at the time of the Des Moines investigation was showing an absolute decrease in the first six months of 1980 compared to the same period in 1979. Further, 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. The Department's updated survey showed that the import reliance for 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 represented less than one-half of one percent of Firestone's total sales decline in 1979 and 1980. Although a two-part survey on Firestone's customers was conducted in the Salinas investigation, one including national accounts and the other local Western accounts, the Department did not see fit to do this for the Des Moines plant since it is the Department's understanding that Des Moines' output is marketed nationally.

Further, the Department found on reconsideration that a substantial amount of the production at Des Moines in 1979 was private brands; however, only a negligible amount consisted of Seiberling or Zenith tires—the primary house brands at the Barberton, Ohio facility of a Firestone subsidiary. The Department found that of the 20 private brands listed in the application, nine were included in the Department's survey among which were several of Firestone's largest private label customers.

Conclusion

After reconsideration, I reaffirm the original Notice of Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance to workers and former workers of the Des Moines, Iowa plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C., this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36402 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8072]

Firestone Tire & Rubber Co., La Vergne, Tenn.; Negative Determination on Reconsideration

On September 22, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing truck tires at the La Vergne, Tennessee plant of the Firestone Tire and Rubber Company. This determination was published in the **Federal Register** on September 30, 1980, (45 FR 64763).

The union claimed in its application for reconsideration that the Department's investigation was not consistent with others conducted by the Department especially the Firestone investigations concerning the Salinas, and South Gate, California plants. The union also claimed that their private brand truck tire customers were not included in the Department's survey.

The Department's review of the investigative file showed that the truck tire workers at the La Vergne, Tennessee plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchased truck tires. Most customers from both groups indicated that they either did not import or decreased their imports of truck tires. Customers who decreased purchases of truck tires from Firestone and increased their import purchases represented an insignificant proportion of truck tire sales for Firestone and an insignificant proportion of Firestone's decline in sales in 1979 compared with 1978 and in the first four months of 1980 compared with the same period in 1979.

The Department does not agree with the claim that its investigation of the La Vergne plant is inconsistent with others conducted by the Department, especially the Salinas and South Gate, California investigations. The Department notes that it conducted its investigation of the Salinas and South Gate plants in an earlier time frame, based on their earlier petitions. The Department's certification 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 indicated contrary results in the La Vergne case. First, with respect to company imports, Firestone's imports of truck tires in 1980 were negligible when compared to La Vergne's production of truck tires in 1980. Secondly, at the time of the Salinas and South Gate investigations, the Department had U.S. aggregate import data through September and June of 1979, respectively. These data showed that U.S. imports of truck tires increased both absolutely and relative to domestic production in the first six and nine months of 1979 compared to their respective periods in 1978. However, at the time of the La Vergne investigation, U.S. aggregate import data for truck tires was declining. U.S. imports of truck tires decreased absolutely in the first six months of 1980 compared to the same period in 1979. Layoffs at La Vergne began in March 1980.

Further, the Department found on reconsideration that only a minor amount of the truck tire production at La Vergne in 1979 and 1980 was private brands and that many of these private brands were included in the Department's survey among which were several of Firestone's largest private label customers. In its reconsideration the Department had available a new survey of Firestone's truck tire customers. Through the first six months of 1980, this survey was consistent with the earlier truck tire customer survey.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for worker adjustment assistance to workers and former workers of the La Vergne, Tennessee plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C, this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36401 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6953 and 6998]

Ford Motor Co., Lorain Assembly, Lorain, Ohio, and Dearborn Steel, Dearborn, Mich.; Amended Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued Certifications of Eligibility to Apply for Worker Adjustment Assistance on April 17, 1980 and April 25, 1980, published in the **Federal Register** on April 25, 1980, (45 FR 28009) and May 2, 1980, (45 FR 29433), respectively, applicable to all workers covered under the following petitions: TA-W-6946 through 6948, TA-W-6950 through 6958 and TA-W-6669, TA-W-6916, TA-W-6959 through 6966, TA-W-6968 through 6991, TA-W-6993, TA-W-6995 through 6998, TA-W-7170, respectively. The Department also issued an Amended Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance on July 16, 1980. The Notice of Amended Determinations was published in the **Federal Register** on July 25, 1980, (45 FR 49703).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certifications and amended determinations. The additional information revealed that substantial layoffs occurred several weeks prior to the impact dates for both plants cited above. These layoffs were not covered by the original impact dates set in the certifications for workers at the Lorain Assembly plant, Lorain, Ohio and the Dearborn Steel plant, Dearborn, Michigan. Both plants had an impact date of August 1, 1979.

The intent of the certification is to cover workers of the Ford Motor Company who were affected by the decline in the sales or production of passenger cars, pick-up trucks, light trucks, utility vehicles and component parts for passenger cars, trucks, vans and general utility vehicles at certain plants of the Ford Motor Company, Dearborn, Michigan related to increased import competition. The Notice of Amended Determinations of July 16, 1980, therefore, is amended to include a new impact date of June 1, 1979 for the Lorain Assembly plant in Lorain, Ohio and a new impact date of July 1, 1979 for the Dearborn Steel plant of the Ford Motor Company.

The certifications applicable to TA-W-6953 and TA-W-6998 are hereby amended a second time and issued as follows:

All workers of the Ford Motor Company's Lorain Assembly plant, Lorain, Ohio who became totally or partially separated from employment on or after June 1, 1979 and all workers of Ford Motor Company's Dearborn Steel plant, Dearborn, Michigan who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of November 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-36405 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8141]

General Electric Co., Tube Products Division, Ninth Street Plant, Owensboro, Ky.; Negative Determination Regarding Application for Reconsideration

By an application dated October 8, 1980, the petitioner, the Allied Industrial Workers of America, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing electronic receiving tubes at General Electric's Owensboro, Kentucky plant. The determination was published in the **Federal Register** on September 19, 1980, (45 FR 62589).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that even though imports of receiving tubes have decreased, the potential for worker separations has increased. The union also claims that their workers should have been certified since millions of receiving tubes, tube mounts and T.V. sets are being imported.

The Department's review showed that the petition for workers producing receiving tubes at General Electric Tube Products' plant in Owensboro, Kentucky did not meet the increased import criterion in 1979 and the first half of 1980. U.S. imports of electronic receiving tubes decreased both absolutely and relative to domestic shipments in 1979 compared to 1978 and in the first half of 1980 compared to the same period in 1979. Company imports of the tube mounts decreased in 1979 compared to 1978 and in the first five months of 1980 compared to the same period in 1979. The domestic receiving tube industry faces a receding market because of the advances of solid state technology. The displacement of tubes in new T.V. equipment has caused a decline in original equipment tube sales to nearly zero. Additionally, the quality and popularity of solid state television has been a factor in the decline in replacement sales of receiving tubes in recent years.

The Department does not consider that the union's claim that the potential for worker separations at the Owensboro plant has increased provides a basis for certification under the Trade Act of 1974. Actual layoffs at Owensboro were attributed to the declining domestic market for electronic receiving tubes.

The Department does not agree for the following reasons with the union's claim that the Owensboro workers should have been certified since T.V. sets, receiving tubes, and tube mounts are being imported. Firstly, imported T.V. sets incorporating receiving tubes cannot be considered as imported receiving tubes. The Department has previously determined that a finished article is not like or directly competitive with its component parts. This position is supported by the courts. Secondly, one of the criteria for group certification under the Trade Act is that imports of products directly competitive with the product produced at the workers' firm or appropriate subdivision must have increased. This is not the case with the workers at Owensboro since imports of receiving tubes decreased in the period under investigation. Thirdly, the mounts produced at Owensboro are only used for Owensboro tube production. Company imports of mounts were found to be decreasing.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 13th day of November 1980.

James F. Taylor,

Director, Office of Management, Adiministration and Planning.

[FR Doc. 80-36404 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

Office of the secretary

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1954

Correction

In FR Doc. 80-34881 appearing on page 74115 in the issue of Friday, November 7, 1980, in the list of states, insert "Puerto Rico" and the "Virgin Islands" in alphabetical order.

BILLING CODE 1505-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), the National Commission for Employment Policy is giving notice that its twenty-first meeting will be held December 4-5, 1980. The meeting will take place at the Sheraton-Carlton Hotel in the Chandelier Room, 923 16th Street, NW., Washington, D.C. 20006, from 1:00 until 5:00 on the 4th and from 8:30 to 5:00 on the 5th.

The National Commission for Employment Policy was established as Title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Specifically, the Commission is charged with reporting annually to the President and the Congress on its findings and recommendations.

The agenda on the 4th and 5th will be devoted to final consideration of the Commission's recommendations on economic development policies to reduce structural unemployment. Commission members will also begin initial consideration of recommendations on the effect of education and of employment and training programs on women.

Business meetings are open to the public. People desiring to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to

the Director at least two days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Director at least three days before the meeting. This application should include: the name and address of the applicant, subject of presentation, relation to the agenda, amount of time needed, the individual's qualifications to speak on the subject and a statement justifying the reason a written statement would not suffice.

The Commission Chairman has the right to decide to what extent public oral presentations will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, D.C.

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

Daniel H. Saks,

Director National Commission for Employment Policy.

[FR Doc. 80-36399 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel: Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506.

DATE: December 8-9, 1980.

TIME:

9:00 a.m. to 5:00 p.m. on December 8.
9:00 a.m. to 12:00 noon on December 9.

ROOM: 807.

PROGRAM: During the past year the National Endowment for the Humanities has received a number of requests from tribes concerning projects related to tribal archives. The requests ranged from ones to establish archives to requests for projects which will supplement already existing collections. In an attempt to understand and meet most appropriately and fairly as many of the current needs of Indian archival projects as possible this meeting is being held to discuss these requests with representatives of various Federal agencies, tribes, and a number of other organizations involved in our archival projects.

This meeting will be open to the public. Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-36342 Filed 11-20-80; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[NUREG-0619]

BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking; Report Issuance and Availability

A task group with members from the Nuclear Regulatory Commission (NRC) staff has prepared a report entitled "BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking" (NUREG-0619), dated October, 1980. The report provides the staff's resolution of the NRC's Generic Technical Activity A-10, which was an "Unresolved Safety Issue" pursuant to Section 210 of the Energy Reorganization Act of 1974.

The generic study resulted from the inservice discovery of cracking in feedwater nozzles and control rod drive return line nozzles.

NUREG-0619 describes the technical issues, the technical studies and analyses performed by the General Electric Company and the NRC staff, the staff's technical positions based on these studies, and the staff's plans for requiring licensee and applicant continued implementation of its technical postions.

The NRC staff has concluded, in the case of the feedwater nozzles, that the combination of nozzle clad removal, installation of General Electric-designed triple sleeve spargers (or others with satisfactory characteristics), procedural changes, and systems changes where deemed necessary, will assure the goal of long term operation without significant crack growth. However, no operating reactor currently satisfies all requirements, and plant specific implementation will be necessary. The staff has established inservice inspection intervals based upon its evaluation of the combined proposed solutions.

With regard to the control rod drive return line nozzle, the staff has concluded that certain control rod drive hydraulic system modifications will be necessary on all operating reactors. The staff's principal considerations were the need to prevent cracking of the nozzle and the need to assure high pressure control rod drive system flow to the reactor vessel sufficient to cover the core when other other sources of water are unavailable. This was the case at some times during the fire at Brown's Ferry Unit No. 1. The staff report requires that each operating plant prove this capability, which may require the simultaneous operation of the two control rod drive pumps, and also requires that plants currently under licensing review conform to the criteria developed for operating reactors for both the feedwater nozzle and control rod drive return line nozzle issues. This requirement, plus others contained in Part II of NUREG-0619, represents a conservative departure from current licensing criteria.

Public comments on the report, including the proposed new requirements and implemenation schedules, were solicited from interested organizations, groups and individuals. The staff has evaluated the comments received and has incorporated the applicable comments in this revision of NUREG-0619. Appendix E of the NUREG addresses the staff's consideration and disposition of the comments received.

Implementation of the staff's requirements is being accomplished in the same manner as items from the Three Mile Island Action Plan. Letters to licensees include a request for commitment to implement the staff's requirements, pursuant to Title 10 CFR 50.54(f). Confirmatory or Show-Cause Orders may be issued, if necessary. In the case of license applicants, the NUREG is specific with regard to requirements to be completed prior to licensing.

Copies of the report will be available after November 28th. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street NW., Washington, D.C., and the Commission's local public document rooms located in the vicinity

of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Rooms Branch, Mail Stop 309, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492/7536.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Frank Schroeder,

Assistant Director for Generic Projects, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36365 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission [the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station, Unit 1 (the facility) located near Plymouth, Massachusetts. The amendment was effective from October 31, 1980 through November 7, 1980.

This amendment changes the Technical Specifications to make provisions for temporary relief from the Limiting Condition of Operation in Technical Specification Section 3.5.B concerning operability of the Salt Service Water System. This relief is granted from October 31, 1980 through November 7, 1980.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated October 31, 1980, (2) Amendment No. 44 to License No. DPR-35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. 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 17th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36358 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237, 50-254 and 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Provisional Operating License No. DPR-19, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit No. 2, located in Grundy County, Illinois. The Commission has also issued Amendment No. 59 to Facility Operating License No. DPR-29, and Amendment No. 54 to Facility Operting License No. DPR-30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operations of the Quad-Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the technical specifications to etablish MAPLHGR limits for standard 8x8 (8D250 and 8D262) fuel types for exposure values beyond those currently given in the technical specifications. This is appropriate for extended operating cycle operation and results in more effective use of fuel and reduced spent fuel generation.

The application for the amendments 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 amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments 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 these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 19, 1980, (2) Amendment No. 50 to License No. DPR-19, Amendment No. 59 to License No. DPR-29, and Amendment No. 54 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois, for Dresden 2 and at the Moline Public Library, 504 17th Street, Moline, Illinois, for Quad Cities 1 and 2. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36360 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-389]

Florida Power and Light Co.; Orlando Utilities Commission of the City of Orlando, Fla., St. Lucie Plant, Unit No. 2; Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-144 issued to The Florida Power and Light Company. This amendment reflects the transfer of an undivided 6.08951 percent ownership share in the St. Lucie Plant, Unit No. 2 facility to the Orlando Utilities Commission of the City of Orlando, Florida. The Orlando Utilities Commission of the City of Orlando, Florida is financially qualified to participate in the design, construction and operation of the St. Lucie Plant, Unit

No. 2 pursuant to the requirements of 10 CFR Part 50.

The St. Lucie Plant, Unit 2 is located on Hutchinson Island in St. Lucie County, Florida.

The Nuclear Regulatory Commission has found that the provisions of the amendment comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of the amendment will not be inimical to the common defense and security of the health and safety of the public.

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the amendment is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) the application for transfer of ownership and request for an amendment to the construction permit, dated June 13, 1980, and (2) Amendment No. 2 to Construction Permit No. CPPR-144 and associated documents. Both of these items are available for public inspection at the Commission's Public Document Room located at 1717 H Street NW., Washington, D.C. 20555 and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Item 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 14th day of November, 1980.

For the Nuclear Regulatory Commission.

Anthony Bournia,

Acting Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36363 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320OLA]

Metropolitan Edison Company, et al., (Three Mile Island Nuclear Station, Unit 2); Amendment of Order

I

Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the Licensee) are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2 at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressured water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the Licensee's authority to operate the facility was suspended and the Licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11282). These requirements, in the form of proposed Technical Specifications, would modify the facility operating license so as to:

(1) define operating parameters for the current safe, stable, long-term cooling mode for the facility (defined as the recovery mode), and delete all other permissible operating modes so as to assure that operation of the facility in other than the stable shutdown condition of the recovery mode is precluded;

(2) impose functional, operability, redundancy and surveillance requirements as well as safety limits and limiting conditions with regard to those structures, systems, equipment and components necessary to maintain the facility in the current safe, stable shutdown condition and to cope with foreseeable off-normal conditions;

(3) prohibit venting or purging or other treatment of [the approximately 57,000 curies of krypton-85 in] the reactor building atmosphere, the discharge of water decontaminated by EPICOR-II system, and the treatment and disposal of high-level radioactively contaminated water in the reactor building, until each of these activities has been approved by the NRC,[1] consistent with the Commission's Statement of Policy and Notice of Intent to Prepare a Programmatic Environmental Impact Statement (44 FR 67738).

On the basis of the public health, safety, and interest, the requirements of the proposed Technical Specifications, attached to the February 11, 1980 Order, were made effective immediately. Under the terms of the Order, since requests for a hearing are pending before an Atomic Safety and Licensing Board, the proposed formal license amendment incorporating these proposed Technical Specifications will become effective, in the event a hearing is granted, on the date specified in an order made following the hearing or, upon other final dispositiion of such proceeding.

II

Following the March 28, 1979 accident at TMI-2, it became necessary in late April 1979 to alter the preferred cooling mode for the reactor by a transition from use of forced circulation by the reactor coolant system pumps to natural convection circulation.

By letters dated July 31, 1980 (Reference 1) and August 5, 1980 (Reference 2), the Metropolitan Edison Company (licensee) proposed changes to the Recovery Mode technical specifications for Three Mile Island Unit 2 (TMI-2) providing for the implementation of the Mini Decay Heat Removal System (MDHRS) for long-term core cooling. Although several modes for removing decay heat would be available, the MDHRS would provide a forced flow system for removing decay heat from the TMI-2 reactor fuel. Accordingly, the proposed changes would impose operability requirements for the MDHRS and would also delete the operability requirements for certain Balance of Plant (BOP) systems which have been used since the March 28, 1979, accident, but would no longer be required, for removing the decay heat. The operability requirements for these BOP systems had been imposed by the Order of the Director of the Office of Nuclear Reactor Regulation on February 11, 1980, (45 FR 11282) in the form of proposed Technical Specifications.

The proposed change would make available a newly installed MDHRS to remove decay heat rather than the present method which accomplishes this function by using the "A" steam generator in a steaming mode to the condenser. The licensee's proposal required certain modifications to meet our requirements. With the incorporation of these staff required modifications, we have found the proposal to be an acceptable method for removing the decay heat and have therefore granted the licensee's request to modify the method used for long term core cooling.

The TMI-2 Reactor Coolant System (RCS) is currently operating in a natural circulation heat removal mode with heat rejection from it being accomplished by both loss to ambient (reactor atmosphere and sump water) and through the "A" steam generator. The reactor building is in turn being cooled by the reactor building fan coolers while the "A" steam generator is steaming to the condenser through the turbine

[1] By Memorandum and Order, dated June 12, 1980, the Commission gave the approval contemplated by this restriction insofar as necessary for the Licensee to conduct a purging of the TMI-2 containment in accordance with procedures approved by the NRC. CLI-80-25. This activity was completed on July 11, 1980.

bypass valve. This mode of core cooling has been in effect since late April 1979. With passage of time and the associated reduction of decay heat generation rate (presently approximately 75 kw), the natural circulation flow has changed from continuous to cyclic with increasing intervals between the cyclic flow "burps".

Heat rejection through the "A" steam generator by steaming to the condenser requires the operation of several major BOP systems including: circulating water system, main steam system and the "A" steam generator, condensate and feedwater systems, main condenser and package boiler. Conversion to and use of the MDHRS for core cooling would simplify the plant operations since use of the MDHRS would eliminate the need for operating the previously noted BOP systems.

The MDHRS is classified as a nonsafety grade system but it is designed and installed to seismic Category I requirements up to and including the second isolation valve in its supply and discharge lines. The balance of the system is designed and installed to Operating Basis Earthquake requirements. The MDHRS takes suction from the "B" loop of the Decay Heat System (DH) outlet from the reactor vessel via a connection to the Alternate Decay Heat Removal System (ADH). After passing through one of the MDHR's parallel heat exchangers and pumps, the reactor coolant is returned to the reactor coolant system through the "B" Core Flooding injection nozzle via a connection to the ADH and DH systems. Connection of the ADH to the DH was evaluated and approved in NUREG–0557. The MDHRS is sized such that one pump and one heat exchanger (two of each are installed) could remove up to approximately 1 MW of decay heat. Therefore the MDHRS has more than adequate cooling capacity for removing the present and future decay heat loads. The MDHRS would be cooled by the Nuclear Services Closed Cycle Cooling System which is required to be operable by proposed Technical Specification 3.7.3.1. The power supply for the MDHRS pumps and motor operated valves is from redundant Class 1E busses which would be manually loaded on the Class 1E diesel generators in the event of a loss of off-site power.

In the event the MDHRS is not used or becomes inoperable, backup cooling modes are available for removing the decay heat from the RCS. These backup cooling modes include the long term "B" steam generator cooling system and "Loss to Ambient." The long term "B" steam generator cooling system has been previously evaluated and its operability would continue to be required by proposed Technical Specification 3.7.1. The NRC staff has reviewed the licensee's results of the "Loss to Ambient" cooling mode and has performed an independent analysis, the results of which are in agreement with the licensee's conclusion. Therefore, we have concluded that any one of these cooling methods provides an acceptable means for long term cooling of the reactor core. The staff's overall evaluation of the MDHRS is presented in the concurrently issued Safety Evaluation Report (SER).

The MDHRS has a design pressure of 235 psig. Therefore, consideration was given to possible sources of overpressurization of the MDHRS. Three potential sources of MDHRS overpressurization were identified. These sources were: (1) Makeup pump operation with MDHRS in operation, (2) Pressurizer heater operation and (3) Malfunction of the Standby Pressure Control (SPC) System.

To preclude operation of a makeup pump during operation of the MDHRS, the licensee proposed to delete the requirement for an operable makeup pump from the proposed Technical Specifications but to retain the option to operate the pump for certain operations (e.g., degassing). The licensee further stated that the electrical power supply circuit breakers for the makeup pumps would be "racked out" when valve DH–V1 or DH.V171 is open. Since operation of a makeup pump may be required in one or more of the backup cooling modes or for degasssing operations, we will retain a requirement for its operability in proposed Technical Specification 3.1.1.1. However, to provide assurance that the MDHRS will not be overpressurized due to operation of a makeup pump, we propose to add a requirement to proposed Techncial Specifications 3.1.1.1 that all makeup pumps be made inoperable when valve DH–V1 or DH–V171 is open by "racking out" their electrical power supply circuit breakers. We would also add a surveillance requirement to the Recovery Operations Plan to periodically verify that these breakers are "racked out." These actions provide assurance that the MDHRS would not be overpressurized due to operation of the makeup pumps.

Operation of the pressurizer heaters while operating the RCS in a water solid mode with the MDHRS in operation creates the potential for overpressurization of the MDHRS due to volumetric expansion of the ractor coolant as a result of heat input to the reactor coolant. The licensee has calcualted that the electrical energization of all the pressurizer heaters (1638 kw) would result in a volumetric expansion on the reactor coolant which would require a compensating relief capacity of 8.6 gpm. The MDHRS has an installed relief valve capacity of 53.5 gpm. The NRC staff has reviewed the licensee's result of this potential overpressurization event and has performed an independent check, the results of which are in agreement with the licensee's conclusion. Therefore, we agree that operation of the pressurizer heaters while operating the MDHRS with a water solid RCS would not result in overpressurization of the MDHRS.

Overpressurization of the MDHRS due to a malfunction of the SPC system has been precluded by reducing the SPC in-service nitrogen bank pressure to a new operating range of 225 to 400 psig and by the installation of a SPC system pressure relief valve (SPC–R14) which has been set to provide overpressure relief if the SPC system pressure exceeds 125 psig which is substantially below the MDHRS design pressure of 235 psig. The change in the nitrogen bank pressure was approved on July 25, 1980 (Reference 3).

The licensee also proposed deleting from proposed Techncial Specification 3.1.1.1 the requirements for a boric acid storage system and an associated flow path to the RCS. We have reviewed this proposed change and since redundant boron injection flow paths from the BWST to the RCS via the makeup pump and decay heat removal pump exist, we find the proposed change acceptable.

The licensee's proposed Technical Specification for the MDHRS would require only one operable MDHRS pump and heat exchanger with an action statement providing instructions to be taken in the event of their inoperability. Our position is that this Technical Specification should require the operability of both MDHRS pumps and heat exchangers and the associated flow path and that applicable action statements should be supplied dealing with the inoperability of the various components in the MDHRS. The staff's position is consistent with the operability requirements for similar systems (e.g., proposed Technical Specifications 3.7.2.1, 3.7.3.1 and 3.7.4.1) in which the redundant systems are required operable and action statements are provided for when one or both systems are inoperable. Unless both MDHRS pumps are required operable and periodically demonstrated so in accordance with applicable surveillance

requirements, there is no assurance of the operability of the redundant pump should its use be required for any reason. We have therefore modified the Technical Specification proposed for the MDHRS to be in accordance with our position. The licensee has agreed with our position on this matter. We have also added appropriate surveillance requirements to the Operations Recovery Plan to periodically demonstrate the operability of the MDHRS.

The licensee also proposed to delete from proposed Technical Specification 3.8.2.1, the operability requirements for several electrical power busses. Its basis for proposing to delete these requirements was that they supplied electrical power to the various BOP systems which were proposed for deletion from the proposed Technical Specifications upon incorporation of the DMHRS. However, in our review of these proposed changes, we determined that four of the busses proposed for deletion (480 volt Busses 2–35, 2–36, 2–45 and 2–46) also supplied electrical power to the auxiliary building and the fuel handling building air cleanup systems which are in turn required operable per proposed Technical Specification 3.9.12. Therefore, to ensure the electrical power supply for these air cleanup systems, we have retained the operability requirements for these four busses in proposed Technical Specification 3.8.2.1. The licensee has agreed that the operability requirements for these four busses should be retained in proposed Technical Specification 3.8.2.1. We agree that the operability requirements for the other busses can be deleted from the proposed Technical Specifications as proposed by the licensee since the other busses proposed for deletion do not supply electrical power to any systems required for maintaining the plant in its safe shutdown condition.

Based on the staff's review of accident considerations, as presented in the SER, the staff has concluded that use of the MDHRS does not increase the probability or consequences of an accident or malfunction previously considered or reduce a margin of safety, and, thus, does not involve a significant hazards consideration. Indeed, as described above, the staff considers that the use and availability of the MDHRS will enhance the licensee's ability to maintain the reactor in a safe shutdown cooling mode by providing a simplified and appropriately sized decay heat removal system.

We have also determined that the modification does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the modification involves an action which is insignificant from the standpoint of environmetnal impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the modification.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Director's Order of Feburary 11, 1980 is hereby revised to incorporate the deletions, additions and modifications set forth in Attachment A hereto.

For further details with respect to this actin, see (1) Letter to B. Snyder, USNRC, from R. C. Arnold, Met. Ed/GPU, Technical Specification Change Request No. 24, dated July 31, 1980, (TLL 372); (2) Letter to B. Snyder, USNRC, from R. C. Arnold, Met. Ed/GPU, Technical Specification Change Request No. 24, dated August 5, 1980 (TLL 382); (3) Letter to R. C. Arnold, Met. Ed/GPU, from John T. Collins, USNRC, TMI–2 Recovery Operations Plan Change Request No. 4, dated July 25, 1980 (NRC/TMI–80–115); and (4) the Director's Order of February 11, 1980.

All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Effective date: November 14, 1980.

Dated at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36359 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), which revised the license for operation of the Cooper Nuclear Power Station (the facility), located in Nemaha County, Nebraska. 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 adds a license condition to include the Commission-approved Safeguards Contingency Plan as part of the license.

The licensee's filings 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 the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendment.

The licensee's filings dated July 29, 1979, revised by letter dated May 30, 1980, transmitting revision dated May 14, 1980, are 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. 64 to License No. DPR–46 and (2) the Commission's related letter to the licensee dated November 13, 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska. 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 13th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36361 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

This amendment modifies Appendix B of the Technical Specifications to delete Section 2.1.2/3.1.2 regarding maximum discharge temperature.

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 is a ministerial action and an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1980, (2) Amendment No. 65 to License No. DPR-46, and (3) the Commission's letter to the licensee dated ———. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska 67305. 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 13th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36362 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-260]

Tennessee Valley Authority; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 2 (the facility) located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

This amendment permits operation of Browns Ferry Unit No. 2 with prepressurized 8 by 8 retrofit fuel in the fourth fuel cycle following the third refueling outage.

The application for this amendment complies with the standards and requirements for 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 the pursuant to 10 CFR 51.5(d)(4) an environmental. impact statememt, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1980, as supplemented by letters dated August 29, 1980 and October 7, 1980, (2) Amendment No. 58 to License No. DPR-52, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36364 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-483 and STN 50-486]

Union Electric Company; Clarification of Notice of Receipt of Application for Facility Operating Licenses: Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing

On August 26, 1980 the Nuclear Regulatory Commission (the Commission) published in the **Federal Register** a notice of "Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Façility Operating Licenses and Notice of Opportunity for Hearing with respect to Units 1 and 2 of the Callaway Plant," 45 FR 56956. This Notice clarifies and supersedes that Notice concerning Union Electric Company (the Applicant).

Notice is hereby given that the Commission, by letter dated October 1, 1980, was advised by the Applicant that it is only seeking the issuance at this time of an operating license for Callaway Plant, Unit 1. The Environmental Report was filed on October 19, 1979, and includes information on the environmental effects of the operation of Callaway Units 1 and 2. However, the Applicant states that it is not now seeking an operating license for Callaway Plant, Unit 2. The Applicant does not anticipate that construction of Callaway, Unit 2, will be completed before late 1987. Upon receipt of an application for Unit 2, a separate notice of receipt will be published by the Commission including an appropriate notice of opportunity to request a hearing with respect to the Operating License application for that Unit. Accordingly, the Commission is re-issuing and superseding its August 26, 1980 **Federal Register** notice to reflect this fact.

Notice is hereby given that the Commission has received from the applicant an application for a facility operating license to possess, use and operate the Callaway Plant, Unit 1. The Callaway Plant, Unit 1 is a pressurized water nuclear reactor to be located on the applicant's site in Callaway County, Missouri. The reactor is designed to operate at a core power level of 3411 megawatts thermal, with an equivalent net electrial output of approximately 1150 megawatts. Construction of the unit was authorized by Construction Permit

No. CPPR–139 issued by the Commission on April 6, 1976. The NRC Staff presently anticipates that construction of Unit 1 will be completed by February of 1983.

The application filed with the Commission for its review on October 19, 1979, includes a Final Safety Analysis Report for Callaway Plant, Unit 1 (which references the Standardized Nuclear Unit Power Plant System (SNUPPS) Final Safety Analysis Report), and the forementioned Environmental Report for Callaway Plant, Unit 1.

The Commission will consider the issuance of a facility operating license to Union Electric Company which would authorize the applicant to possess, use and operate the Callaway Plant, Unit 1, in accordance with the provisions of the license and the technical specifications appended thereto, upon (1) the completion of a favorable safety evaluation of the application by the Commission staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51 including a consideration of the impact of the facility on the floodplain inasmuch as the proposed project will have structures located on the floodplain; (3) the receipt of a record on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license as amended complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations in 10 CFR Chapter I.

Prior to issuance of any operating license for the Callaway Plant, Unit 1, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By December 11, 1980, the applicant may file a request for a hearing with respect to issuance of the facility operating license for the Callaway Plant, Unit 1. By December 22, 1980, any person whose interest may be affected by this proceeding may file a petition for leave to intervene.

Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules and Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Atomic Safety and Licensing Board, previously designated by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. Any person who previously filed a petition for leave to intervene or request for a hearing in response to the August 26, 1980 Federal Register notice need not refile pursuant to this Notice. However, as stated in the second paragraph of this Notice, the notice of opportunity for the hearing applies to Callaway Plant Unit 1 only.

Dated at Bethesda, Maryland this 14th day of November 1980.

For the Nuclear Regulatory Commission.

Anthony Bournia,

Acting Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36368 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposals on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between October 28, 1980 and November 10, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice periods begin on the report date indicated.

General Services Administration

Name of System: Ridesharing System
Report Date: November 3, 1980
Point of Contact: Privacy Act Officer, General Services Administration (HR), Washington, D.C. 20405

Summary: The General Services Administration proposes to amend an existing system of records to increase the number of individuals in the system. The present system contains applicants for carpools from the Washington, D.C. area. The expanded system will contain applicants from five other GSA regions.

Department of Justice

Name of System: Civil Division Case File System
Report Date: October 22, 1980
Point of Contact: Adminstrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530

Summary: The Department of Justice proposes to amend an existing system of records to alter the manner in which case docketing information is stored. The alteration involves computerizing existing and future records and storing this information on magnetic diskettes. The system contains case-related information prepared by staff attorneys and docket staff.

Department of Housing and Urban Development

Name of System: Intergovernmental Personnel Act Assignment Records
Report Date: November 3, 1980
Point of Contact: Mr. Robert English, Departmental Privacy Officer, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development, Washington, D.C. 20410

Summary: The Department of Housing and Urban Development proposes to establish a new system of records containing information about current or former employees of State and local governments or of other eligible organizations who are undergoing or have completed an Intergovernmental Personnel Act (IPA) assignment with the Department. This information is used to

formally document the temporary assignment of an employee between two agencies under the Intergovernmental Personnel Act. The records establish the legal basis for personnel and financial transactions which facilitate these temporary assignments, and assure proper adminstration of the program within HUD.

Department of Defense

Name of System: Historical Research and Retrieval System
Report Date: October 22, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, Va. 22209
Summary: The Department of the Air Force porposes to establish a new system of records to provide an automated retrieval system that will support the extensive research requirements of historical programs and serve as a primary source for answering requests for historical information from throughout the U.S. Government on all facets of Air Force Special Intelligence activities. Further, it will provide extensive research services for the preparation of historical studies on a variety of subjects. Included in the system will be records on military and civilian members of the Electronic Command, including active, retired and deceased personnel.
Name of System: International Legal Hold Files
Report Date: October 23, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The Department of the Navy proposes to automate an existing system of records to provide more efficient management and control of foreign criminal jurisdiction cases in which servicemen, civilian employees, and dependent are charged with offenses. Routine uses for the system include disclosures to foreign civilian attorneys representing the accused; the accused's military advisor in seeking an expeditious settlement of the case; supervisory personnel in performance of their official duties in monitoring the legal hold status of individuals involved; and authorized officials in the Department of Defense for required reports.
Name of System: Car Pool Program Participants File
Report Date: October 22, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The Defense Logistics Agency proposes to establish a new system of records to collect and maintain data to operate an automated car pool locator program.
Name of System: NASA/CSS Archival Records File
Report Date: October 8, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The National Security Agency proposes to establish a new system of records to support a cryptologic archives. Records include organizational files, correspondence, tape recorded interviews, forms, documents, reports, films, magnetic tapes, microfiche, and other related items of cryptologic interest, most of which are 20 or more years old and which have been determined to be permanent U.S. Government records not yet declassified. Although most records maintained in this system are subject matter retrievable, certain records have been donated by individuals, some are about individuals significant to the history of cryptology, and some are recorded interviews of individuals who have contributed to this archival process. For these latter categories, there is a name retrieval capability requiring the establishment of a system of records. The records will be used to enable historians to locate source materials; to permit systematic review of classified records; to facilitate access to retired records; and to provide a source for response to public requests for NSA/CCS records. This system is exempt from certain provisions of the Privacy Act under 5 U.S.C. 552a(k)(1) and (k)(4).

United States Arms Control and Disarmament Agency

Name of System: ACDA Integrated Retrieval System (AIRS)
Report Date: October 6, 1980
Point of Contact:
Mr. Raymond O. Waters,
Office of the General Counsel,
U.S. Arms Control and Disarmament Agency,
Washington, D.C. 20451
Summary: The United States Arms Control and Disarmament Agency proposes to establish a new system of records to provide a quick, agency-wide automated system to identify, locate and retrieve important documents in each of the agency's bureaus and offices. It will consist of an index of important documents of all ACDA elements of certain published works and public documents on arms control matters. It will enable ACDA employees and a limited number of other individuals with a need for access to the index to identify, locate and retrieve documents.

Pension Benefit Guaranty Corporation

Name of System: Plan Participant and Beneficiary Address Identification File
Report Date: October 8, 1980
Point of Contact:
Mr. Henry Rose,
General counsel,
Office of the General Counsel,
Pension Benefit Guaranty Corporation,
2020 K Street. NW.,
Washington, D.C. 20006
Summary: The Pension Benefit Guaranty Corporation proposes to establish a new system of records to contain current addresses of pension plan participants and beneficiaries who are eligible for a pension benefit under a terminated pension plan, but for whom the Pension Benefit Guaranty Corporation or the plan administrator does not have a current address on file. The address information will be provided by request from the files of the Internal Revenue Service and will be safequarded as "tax information" as required by section 6103 of the Internal Revenue Code. The purpose of this system is to enable the Pension Benefit Guaranty Corporation to locate individuals covered by the system so that they can receive pension benefits to which they are entitled.

Railroad Retirement Board

Name of Systems: Railroad Retirement, Survivor and Pensioner Benefit System, Milwaukee Railroad Restructuring Act Benefit System
Report Date: October 15, 1980
Point of Contact:
Mr. Kenneth P. Boehne,
Railroad Retirement Board,
844 Rush Street,
Chicago, IL 60611
Summary: The Railroad Retirement Board proposes to amend two existing systems of records by adding an automated capability in which personal data from the systems will be transmitted via telecommunications lines to four field offices where authorized individuals will have immediate access through video display terminals. This will be a one year pilot study to evaluate the feasibility of establishing such a system nationwide. In addition, the Board proposes to add a new routine use and alter an existing one in the Railroad Retirement, Survivor and Pensioner Benefit System. The new routine use will permit the Board to

disclose to an individual from whose annuity a benefit overpayment is being recovered, information regarding the determination and recovery of the overpayment when that overpayment was made to another individual. The revision to an existing routine use would allow the Board to furnish to an organization under contract to a railroad employer information about the Board's payment of retirement benefits. Presently, the Board can disclose this information only to the railroad employer directly.

Waiver Requests

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be direct to OMB.

Department of Transportation

Name of System: Office of Inspector General Management Information System
Report Date: October 22, 1980
Point of Contact:
Mr. Frank S. Sato
The Inspector General,
Department of Transportation,
Room 9210,
400 7th Street SW.,
Washington, D.C. 20590

Summary: The Department of Transportation proposes to amend an existing system of records to decentralize input and retrieval of selected information to the regional office level. Also decentralized will be the responsibility for maintaining appropriate project, time and travel related manual records. Information in the system includes selected personnel information on all Office of Inspector General personnel, information on audits and investigations relating to Departmental programs, travel and time changes by Office of Inspector General personnel and follow-up data on audit reports and investigative results. The records are maintained in a private library not accessible to unauthorized users. Each region will be assigned a separate identification code for which specific authorization and related limits will be defined. No use will be made of the personal records outside the Department.

Status: Pending

Veterans Administration

Name of System: Vietnam Veterans Readjustment Counseling Program
Report Date: October 24, 1980
Point of Contact:
The Administrator of Veterans Affairs,
Veterans Administration (116A4),
810 Vermont Avenue NW.,
Washington, D.C. 20420

Summary: The Veterans Administration proposes to establish a new partially automated system of records to support a Vietnam Veterans Readjustment Counselling Program. The System will be used to provide management reports and to measure the impact and effectiveness of this program. The data will also be used to make administrative and legislative recommendations necessary to ensure that all Vietnam veterans receive the readjustment counselling and mental health services they need. There are no routine uses providing for disclosures outside the Veterans Administration associated with the system. The only individuals covered by the system are individuals who request Vietnam veterans readjustment counselling, and/or receive such counselling, including veterans, family members, or other counselees who are eligible.

Status: Pending

Brenda A. Mayberry,
Acting Budget and Management Officer.

[FR Doc. 80-36300 Filed 11-20-80; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17308; File No. SR-Amex-80-29]

American Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 3, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Summary Statement of Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Exchange") proposed to increase transaction charges, eliminate the floor facilities fee offset and amend Section 153 of the American Stock Exchange Company Guide ("Company Guide") to increase supplemental equity listing fees.

Equity Transaction Charges

The current charge for agency trades of 28¢ per 100 shares plus 7¢ per $1,000 transaction value will be raised to 30¢ per 100 shares plus 10¢ per $1,000 value.

Option Transaction Charges

The charge for proprietary trades will be increased from 5¢ to 6¢ per contract. The current change for agency trades of 15¢ per contract if the contract value is below $100 and above will remain unchanged.

Floor Facilities Fee

At present, a $700 annual floor facilities fee is levied on all active floor members, but is offset against other floor charges, such as booth, wire and clerk fees. The amount of the facilities fee will remain unchanged, but it will not be subject to offset against other floor fees.

Equity Listing Fees

The current fee for supplemental equity listings of 1¢ per share, subject to a $1,000 minimum and a $10,000 maximum charge, will be raised to 1½¢ per share with a maximum charge of $12,000. The $1,000 minimum charge will remain unchanged.

Exchange's Statement of Basis and Purpose

Over the past five years, the Exchange's fee structure has remained unchanged with the exception of modest increases for communication data and listing fees. The proposed fee increases are necessary to offset the rising costs of operations and to provide funds for future expansion of the Exchange's facilities.

The proposed fee increases and the elimination of the floor facilities fee credit are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(4) in particular in that they provide for an equitable allocation of reasonable fees and other charges among Exchange members, listed companies, and other persons using Exchange facilities.

Comments Received From Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed fee increases.

Burden on Competition

The Exchange has determined that no burden on competition will be imposed by the proposed fee increases.

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 (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 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 December 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36334 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17309; File No. SR-BSE-80-7]

Boston Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

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 November 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

1. *The Exchange's Statement of the Terms of Substance of the Proposed Rule Change*

The proposed rule change would amend Chapter II, Section 23 of the Exchange Rules to conform with Commission Rule 19c-3, which amends rules of national securities exchanges that limit or condition the ability of members to effect transactions over-the-counter in exchange traded securities ("off-board trading restrictions"), to preclude the application of those restrictions to certain securities which were not exchange traded on April 26, 1979, or which were exchange traded on April 26, 1979, but which fail to remain continuously traded thereafter.

2. *Procedures of Self-Regulatory Organization*

The Board of Governors approved the proposed amendments on August 28, 1980.

3. *The Exchange's Statement of Purpose of the Proposed Changes*

To incorporate into the Rules the recently adopted SEC Rule 19c-3 concerning off-board trading of issues which become listed on Exchanges after April 26, 1979.

4. *The Exchange's Statement of Bases of the Proposed Change*

The basis under the Act for the proposed Rules changes is Section 6(b)(5) and 11(a)(1) since it expands the market in which a public order may be executed, thereby protecting investors and the public interests.

5. *Comments Received from Members, Participants or Others on Proposed Rule Changes*

No comments were solicited or received. The proposed amendment incorporates into the Rules the provisions of SEC Rule 19c-3.

6. *Burden on Competition*

No burden on competition is perceived by adoption of the proposed amendment. The Exchange believes the proposed Rule will benefit the investors and the public by the expansion of the markets in 19c-3 eligible securities.

On or before December 26, 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 changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring the make written submissions should file six copies thereof with the Secretary of the 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, DC. 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 December 12, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36335 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17306; File No. SR-NASD-80-18]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

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 10, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the ful text of proposed amendments to Section B.3. of Part II of Schedule D of the Association's By-Laws (language to be deleted is bracketed, new language is italicized).

Part II, Paragraph B.3.h.

h. in the case of stock the total number of shares publicly held shall be less than 100,000 (shares held directly or indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than ten percent of the class shall ordinarily not be considered as being publicly held); *in the case of rights or warrants, the total number of rights or warrants initially issued shall be less than 100,000;*

Part II, Paragraphs B.3.m. and B.3.n.

m. in the case of rights or warrants, the underlying security [shall] *is* not [be] an authorized security unless such underlying security is listed on a registered national securities exchange (if the underlying security is authorized, or if it is listed on a national securities exchange, the number of [warrants publicly held] *rights or warrants initially issued* shall be considered only in conjunction with initial authorization); or

n. in the case of units not yet authorized, one of the component parts of the unit fails to comply with the requirements for eligible securities not yet authorized; in the case of units already authorized, one of the component parts of the unit fails to comply with the requirements for authorized securities or no market maker is registered in the unit. [(The number of units publicly held shall be considered only in conjunction with initial authorization.)]

Part II, Paragraph C.2.j.

j. in the case of rights or warrants, the underlying security [shall] *is* not [be] an authorized security. [(If the underlying security is authorized the number of warrants publicly held shall be considered only in conjunction with initial authorization.)]

The NASD's Purpose of Proposed Rule Change

The purpose of the proposed rule change is to provide, in the case of rights or warrants of domestic issuers, a minimum standard of 100,000 rights or warrants initially issued. In addition, it eliminates reference to such a standard in the case of domestic units as well as rights and warrants of foreign issuers.

The NASD's Basis Under the Act for the Proposed Rule Change

Section 15A(b)(11) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association contain provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange, which may be distributed or published by any member or other persons associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing and publishing quotations.

Comments Received From Members, Participants or Others on the Proposed Rule Change

Comments were neither solicited nor received.

The NASD's Statement on Burden on Competition

The proposed rule change will clearly provide that a minimum number of rights or warrants must have been issued for inclusion in NASDAQ. The Association believes that the requirement that 100,000 rights or warrants must have been initially issued provides sufficient depth to the market to prevent any potential manipulation. A similar requirement is not necessary in the case of units because of the close relationship between the prices of units and the underlying securities, each of which have to qualify independently.

The Association believes, therefore, that any burdens on competition are incidential and the proposed rule change is in furtherance of the purposes of the Act.

On or before December 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36336 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11447; 812-4715]

Rowe Price Prime Reserve Fund, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Rowe Price Prime Reserve Fund, Inc. ("Applicant"), 100 East Pratt Street, Baltimore, Maryland 21202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 22, 1980, and an amendment thereto on November 6, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund, the investment objectives of which are to seek preservation of capital, liquidity, and the highest possible current income consistent with these objectives. According to the application, Applicant's investment program permits it to invest in a diversified portfolio of "money market" securities, including: U.S. Government obligations; U.S. Government agency securities; bank obligations; commercial paper; short-term corporate debt securities; Canadian Government securities; repurchase agreements; and savings and loan obligations. Applicant has determined to amend its investment program as may be required in any order by the Commission granting the exemptive relief requested to permit Applicant to "round off" its net asset value to the nearest one cent on a share value of one dollar. Applicant's shareholders will be advised of the proposed changes in Applicant's

investment program in connection with the solicitation of shareholder approval of the proposed increase in the number of Applicant's authorized shares to 10,000,000,000, a reduction of the par value of its authorized capital stock (including outstanding shares) to $.10 per share, and the subdivision of Applicant's issued and outstanding shares on a ten for one basis. Applicant further represents that its Prospectus will be appropriately revised to reflect the proposed changes in the investment program and capitalization of Applicant described above.

According to the application, securities for which representative market quotations are readily available are valued at the most recent bid price or yield equivalent as quoted by one or more dealers who make markets in such securities. Securities originally purchased with remaining maturities of 60 days or less are valued at their amortized cost value. Under this method of valuation, a security is initially valued at cost on the date of purchase (or, in the case of a security purchased with more than 60 days remaining to maturity, the market value on the 61st day prior to maturity); and thereafter Applicant assumes a constant proportionate amortization in value until maturity of any discount or premium. Other securities are appraised at values deemed best to reflect their fair value as determined in good faith by or under the supervision of officers of the Applicant in a manner specifically authorized by the Board of Directors. Applicant proposes to effect sales, redemptions and repurchases of its shares at net asset value calculated to the nearest one cent on a share having a value of one dollar.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof 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 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for purposes of distribution, redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In Release No. 9786 the Commission issued an interpretation of Rule 2a–4 expressing its view that (1) it is inconsistent with the provisions of Rule 2a–4 for money market funds to value their assets on an amortized cost basis except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation method is determined to be appropriate by each respective fund's board of directors, and (2) it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' proper portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes or persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation 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.

In support of the relief requested, Applicant represents that in the view of its management, a stable $1.00 net asset value would benefit Applicant and its shareholders because: (i) shareholders would have the convenience of being able to determine the value of their holdings simply by knowing the number of shares they own and, consequently, maintenance of investment records would be simplified; (ii) Applicant could be more competitive with the increasing number of money market mutual funds that attempt to maintain a $1.00 net asset value per share; (iii) shareholders and potential shareholders generally are not concerned with the minor differences which might occur between yield achieved through "market" pricing and the yield computed by using the "penny rounding" valuation method described herein; and (iv) if the net asset value of Applicant were, in fact, maintained at a constant price, there would be no realization of nominal capital gains and losses that might otherwise occur with a "floating" net asset value. Applicant further represents that many shareholders, including both financial institutions and individuals, have indicate that they strongly favor a stable $1.00 net asset value per share.

The Board of Directors of Applicant further believes that computing its net asset value per share to the nearest one cent on a share value of one dollar as described above will allow Applicant to maintain a constant net asset value per share under most circumstances and, thereby, permit Applicant to serve the interests and requirements of its shareholders notwithstanding its use of pricing methods other than amortized cost for valuing its portfolio instruments having remaining maturities in excess of 60 days. The application further represents that the Board of Directors has determined in good faith that this method of calculating the net asset value per share of Applicant, under such circumstances, is appropriate.

Applicant further states that the following conditions may be imposed in any order granting the exemptions it has requested:

1. That Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, underakes (as a particular responsibility within the Board's overall duty of care owed to Applicant's shareholders) to assure, to the extent reasonably practical, taking into account current market conditions affecting the Applicant's investment objective, that Applicant's net asset value per share as computed for purposes of effecting sales, redemptions and repurchases of its shares, rounded to the nearest one cent, will not deviate from $1.00.

2. That Applicant will seek to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. That Applicant's purchases of portfolio instruments, including repurchase agreements, will be limited to those U.S. dollar denominated instruments which the Board of Directors 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 the Board.

For the foregoing reasons, Applicant submits that the exemptions from the provisions of Rule 2a–4 and 22c–1 under the Act which it has requested are

appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 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 reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon 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 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. 80–36337 Filed 11–20–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11445; 812–4706]

Rowe Price New Horizons Fund, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Rowe Price New Horizons Fund, Inc. ("Applicant"), 100 East Pratt Street, Baltimore, MD 21202, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application for an order of the Commission on July 28, 1980, and an amendment thereto on November 12, 1980, pursuant to Section 6(c) of the Act declaring that Paul M. Wythes shall not be considered an "interested person" of the Applicant or its investment adviser, T. Rowe Price Associates, Inc. ("Price Associates"), as defined in Section 2(a)(19) of the Act by reason of his status as a limited partner of Hambrecht & Quist, a California limited partnership registered as a broker-dealer under the Securities Exchange Act of 1934. 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 Applicant is a Maryland corporation. The investment objective of the Applicant is long-term growth of capital through investment primarily in stock of small growth companies in which mangement believes have the potential to become major companies in the future. The board of directors of Applicant has determined to consider Mr. Wythes for election as a director of the Applicant on condition that the order requested in the subject application is granted by the Commission.

Mr. Wythes was a founding director on the National Venture Capital Association in Washington, D.C. (1972–75). Mr. Wythes was a director and president of the Western Association of Venture Capitalists of San Francisco, California from 1970 through 1974. Between 1954 and 1963, Mr. Wythes was Senior Marketing Engineer for the Industrial Products Group of Honeywell, Inc., selling scientific and industrial instrumentation throughout northern California. From 1963 to 1964, Mr. Wythes was employed by Beckman Instruments, Inc., as an associate on their corporate staff involved in long-range planning, mergers, acquisitions, market and product studies worldwide.

Applicant states that Mr. Wythes is presently and since 1979 has been a limited partner in the firm of Hambrecht & Quist, a California limited partnership which is registered as a broker-dealer with the Commission. Mr. Wythes is not otherwise employed or compensated by the firm, and he does not participate in the management of the firm. Mr. Wythes has also advised the Applicant that for the year 1979 his share of the profits of Hambrecht & Quist was less than 15 percent of his total income.

The application indicates that Mr. Wythes is also and since 1970 has been, one of four general partners of Sutter Hill Ventures ("Sutter Hill"), a California limited partnership which makes venture capital investments. Mr. Wythes is also a director of various portfolio companies of Sutter Hill. One other general partner of Sutter Hill is also a limited partner of Hambrecht & Quist, with an interest in its profits and losses identical to that of Mr. Wythes. The total of their combined interest in the profits and losses of Hambrecht & Quist is substntially less than 5 percent. Mr. Wythes has advised the Applicant that his salary as a general partner of Sutter Hill and his income from investments provide the major portion of his total income.

Applicant states that decisions with respect to the purchase and sale of portfolio securities on behalf of the Fund are made by officers of the Applicant pursuant to recommendations of Price Associates. All of such officers are also officers of Price Associates. In selecting broker-dealers, consideration is given to such factors as the price of the security, the rate of the commission, the size and difficulty of the order, the reliability, integrity, financial condition and general execution and operational capability of competing broker-dealers, and the brokerage and research service which they provide to Price Associates or to the Applicant.

The board of directors does not participate in the allocation of the Applicant's brokerage, but reviews such allocations on the basis of quarterly and other periodic reports furnished to it by Price Associates. In the years 1979, 1978 and 1977, the Applicant paid Hambrecht & Quist brokerage commissions (including discounts received in connection with underwritings) of $17,296, $31,031 and $23,659, respectively. The Applicant states that it has been advised that Price Associates anticipates that in the future Applicant's brokerage will be allocated in the same manner and approximately to the same extent as in the past without regard to whether or not Mr. Wythes is elected to the Applicant's board, subject in each case to compliance with the applicable rules of the Commission under the Act. In the opinion of Price Associates, Hambrecht & Quist is one of the most knowledeable firms in the United States in terms of its ability to find and evaluate small, high technology companies of the type that might be suitable for investment by the Applicant, and is, in addition, an active market maker in the securities of such companies. Applicant asserts that if it were not able to continue to deal through or with Hambrecht & Quist, the Applicant might be deprived of (i) the opportunity to purchase or sell securities for which Hambrecht & Quist is considered the most able broker-dealer to effectuate such transactions, and (ii) an important source of investment information.

The application states that at the present time Applicant owns securities of one company which is also owned by Sutter Hill, and the securities of one

other company which was previously but is not now owned by Sutter Hill. The Applicant presently holds one additional security which was formerly (but is not now) held by Sutter Hill. The board of directors of the Applicant has determined that if Mr. Wythes becomes a director of the Applicant it will not acquire securities of any company in which Sutter Hill holds an investment unless and until the desirability of such investment has been approved by a majority of the non-interested directors of the Applicant at the time of such acquisition other than Mr. Wythes. Any such investment will in any event be subject to an investment restriction of the Applicant which prohibits the Applicant from purchasing the securities of any issuer if any officer or director of the Applicant owns more than ½ of 1%, or if all officers and directors of the Applicant together, own more than 5% of the securities of such issuer. The Applicant has represented that in applying such restriction it will treat all securities owned by Sutter Hill as if they were owned individually by Mr. Wythes to the extent of his interest in the profits and losses of Sutter Hill.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company or an investment adviser as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any partner of such other person.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act 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.

The Application states that in the opinion of the board of directors of the Applicant, Mr. Wythes is a man of recognized integrity, intelligence, judgment, independence and standing who would contribute greatly to the perspective of the board in evaluating the performance of the Applicant and Price Associates in investing in smaller public companies because of his experience in venture capital investing. The Applicant states that its board of directors has noted that, if Hambrecht & Quist were a corporation, the interest of Mr. Wythes in its profits and losses would be less than the minimum amount necessary to constitute him an affiliated person of that firm under the definition of affiliated person in Section 2(a)(3) of the Act. The Applicant states that, in the opinion of the board of the Applicant, a person whose sole relationship to a broker-dealer is the ownership of a limited partnership interest of substantially less than 5%, is necessarily further removed from management than he would be if he held voting stock of a corporation and was in a position to participate in the selection of management. Further, Applicant states that since Mr. Wythes would not be deemed to be an interested person of Hambrecht & Quist if he held voting stock with a commensurate interest in profits and losses which put him in a position to participate in the selection of management, the relationship of Mr. Wythes to Hambrecht & Quist is not the type of relationship intended to be subsumed within the statutory definition of interested person.

Accordingly, the Applicant has requested that the Commission issue an order pursuant to Section 6(c) declaring that Mr. Wythes shall not be deemed to an interested director of the Applicant solely by reason of his status as a limited partner of Hambrecht & Quist. As a condition to the granting of the order requested by the application, the Fund has agreed to an undertaking that: (i) Mr. Wythes will not be counted as a non-interested director in the determination of the number of non-interested directors of the Applicant for the purposes of Section 10(a) of the Act, although he will be counted as a director for the purposes of determining the total number of directors to whom the Section 10(a) ratio test applies, and (ii) Mr. Wythes will not vote on any matters relating to the allocation of any portfolio brokerage by the Applicant or the selection of dealers with which the Applicant effects portfolio transactions as principal (including, but not limited to, transactions to which sections 10(f) or 17(a) of the Act or Rules 10f–3 or 17e–1 thereunder are applicable), or to any other matter involving any relationship between the Applicant and Hambrecht & Quist; provided, however, that for the purposes of determining the number of votes of interested as well as non-interested directors required to take action on any such matter, Mr. Wythes will be counted as a director in determining the total number of directors and will be counted as a non-interested director in determining the total number of non-interested directors. Mr. Wythes shall be treated as a non-interested director for all other purposes under the Act (except Section 10(a) as explained under (i) above), including, but not limited to, Sections 15(c) and 17(g) of the Act.

Notice is further given that any interested person may, not later than December 9, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the 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 the 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 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. 80-36338 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17310; File No. SR-MCC-80-2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.

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 November 10, 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

Rule 5, Section 5,of the Rules of the Midwest Clearing Corporation is hereby amended as follows:

Additions Italicized—[Deletions Bracketed]

Rule 5

Security Positions Under CNS

Security Loans

Sec. 5. In the event the amount of a security subject to pending Security Withdrawal Requests shall exceed the available amount of the security delivered to the Corporation against short value positions, the Corporation shall fill such Request to the extent possible out of existing loan free positions, and such positions shall be changed to loan value positions as a result thereof in accordance with the following: The loan free position of the Participant *In the class of Participants with the highest stock loan priority* who has had a loan free position in such security for the longest number of consecutive days preceding the delivery without moving any part thereof to a loan value position shall be change to a loan value position.

In the event that both long value positions and loan free positions remain with respect to any security on any business day after the procedures described in Section 4 and the preceding paragraph of this Section 5 have been completed, the long value positions shall be changed to clearing free positions, and the loan free positions shall be changed to loan value position, until all long value positions of all loan free positions have been eliminated, whichever occus first. Long value positions shall be changed into clearing free positons in accordance with the system of priorities set forth in the second paragraph of Section 4, and loan free positions shall be changed into loan value positions in accordance with the system of priorities set forth in the preceding paragraph of this Section 5. Securities held in a Participant's loan free and loan value positions shall not be offset against the Participant's short value positions unless the Member shall specifically instruct the Corporation to do so.

Statement of Basis and Purpose

The basis and purpose of the foregoing rule change is as follows:

The proposed rule change basically clarifies MCC's Automatic Stock Loan Program which is designed to satisfy priority needs for stock that are not filled via normal deliveries from participants. The present system takes stock out of loan free positions on a first-in, first-out basis,. The rule change will allow MCC to establish prioritized classes of Participants to which this first-in, first-out procedure will still apply within each class.

The proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions by providing a more equitable use of the clearing agency among participants. It is also designed to help perfect the mechanism of a national system for the prompt and acurate clearance and settlement of securities transaction by making MCC more competitive in providing services to its Participants.

The Midwest Clearing Corporation believes that no burdens have been placed on competition. The proposed rule change would, in fact, enhance competition in that it will provide a more equitable means of allocating stock loan priority to participants.

By December 26, 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 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by December 12, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36472 Filed 11-20-80; 8:45am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5378]

Korean Capital Corp.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Korean Capital Corporation (Korean), 222-48 Birmington Parkway, Bayside, New York 11364, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration pursuant to Section 312 of the Act and covered by §§ 107.3(g) and 107.1004(b)(1) of the Regulations governing small business investment companies (SBIC) (13 CFR 107.1004 (1980)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

Korean proposes to provide financing to Seoul Cosmetics, Inc. (Seoul), 36 West 35th Street, New York, New York 10001.

The proposed financing is brought within the purview of § 107.1004(b)(1), in that Seoul is owned by Mr. and Mrs. Jae Hoon Hwang. Mrs. Hwang is a director of Korean, and Seoul therefore is an associate of Korean as defined by § 107.3(g) of the Regulations.

Notice is hereby given that any interested person may, not later than ten (10) days from the date of this Notice, submit written comments on the proposed transaction to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36397 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 10/10-0159]

Northwest Capital Investment Corp.; Filing of Application for Transfer of Control and Ownership of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1980)) for the transfer of control and ownership of Northwest Capital Investment Corp., 1940-116th Avenue, NE, Bellevue, Washington

98009, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Northwest was licensed on June 1, 1972. Its present combined paid-in capital and paid-in surplus (private capital) Is $747,050. The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

All of the outstanding common stock of Northwest is presently owned by 30 shareholders, non owning ten or more percent. The sale of additional shares will increase Northwest's private capital from $747,050 to $5,000,000.

The proposed officers, directors, and stockholders are:

Mathew D. Griffin, 6369 S. Wilson Pl., Clinton, Washington 98236; Chairman, Vice-President, Treasurer.*
Dale H. Zeigler, 13611 SE 56th Pl. Bellevue, Washington 98004; President, Director.
Norman Smedes, 7415 Crowfood Rd., Trail, Oregon 97541; Secretary, Director.
Cheri Marsh, 13601 98th NE., Kirkland, Washington 98033; Assistant Secretary, Assistant Treasurer.
*Continental Oil and Mineral Inc., 3101 Oaks Avenue, Everett, Washington 98201; 100 percent.

*Mathew D. Griffin owns 100 percent of the stock of Continental Oil & Mineral, Inc.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and the probability of successful operation of Northwest under the new control and ownership arrangement (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is hereby given that any interested person may, not later than December 8, 1980, submit to SBA, in writing, any relevant comments on the transfer of control and ownership. Any such comments should be addressed to the acting Associate Administrator for Investment, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in a newspaper of general circulation in Seattle, Washington.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 17, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36398 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0415]

Questech Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Questech Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of $3,500,000.

The Applicant will have its place of business at 11 Hanover Square, New York, New York 10005, and it intends to conduct operations primarily in the State of New York. Applicant plans to grant loans in start-up and emerging companies with a special emphasis on scientific and technological companies.

The officers, directors and ten percent (10%) or more stockholders of the Applicant will be:

*Earl W. Brian, 425 E. 51st St., New York, NY 10022; Chairman, President, and Director.
Dominic A. Laiti, 12525 Knollbrook Dr., Clifton, VA 22024; Treasurer, Secretary, and Director.
Richard C. Vivian, 1381 Rahway Rd., Plainfield, NJ 07060; Assistant Secretary and Director.
John H. Abeles, 3 Otter Trial, Westport, CT 06880; Consultant and Director.
Donald C. Carter, 200 E. 62nd St., New York, NY 10021; Director.
Biotech Capital Corp., 11 Hanover Square, New York, NY 10005; Parent—100%.

*Earl W. Brian is an owner of 73% of the parent (Biotech Capital Corporation) and following a public offering of the parent's stock will own 33% of the parent.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 8, 1980, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Busniss Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 17, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36396 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1947]

California; Declaration of Disaster Loan Area

San Joaquin County and adjacent counties within the State of California constitued a disaster area as a result of damage caused by levee failed, flooding, runoff and wave action which occurred on September 26, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 15, 1981, and for economic injury until the close of business on August 14, 1981, at:

Small Business Administration, District Office, 211 Main Street, 4th Floor, San Francisco, California 94105;

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 14, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36395 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1928; Amendment No. 1]

Florida; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 65377), is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Columbia	Drought and excessive heat.	5/18/80-6/30/80.
Jackson	Drought and excessive heat.	5/1/80-9/30/80.
Okaloosa	Drought and excessive heat.	6/30/80-8/27/80.
Santa Rosa	Drought and excessive heat.	5/15/80-7/20/80.
Suwannee	Drought and excessive heat.	5/1/80-6/30/80.
Washington	Drought and excessive heat.	6/1/80-7/23/80.

and adjacent counties within the State of Florida as a result of natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on March 23, 1981, and for economic injury until the close of business on June 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 23, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36393 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1903; Amendment No. 2]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 59467) and Amendment No. 1 (See 45 FR 62599) are amended in accordance with the President's Declaration of August 11, 1980, to include Duval, Jim Hogg and Kenedy Counties in the State of Texas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties only. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 4, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-36394 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From Ecuador Prohibited

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

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that three United States fishing vessels, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, were seized by Ecuador as a consequence of a claim of jurisdiction which is not recongized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Ecuador is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Ecuador imported on or after November 21, 1980. Such importations shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On October 21, 1980, the CAROL LINDA, CINDY ANN, and MARY S., fishing vessels of the United States, were seized by authorities of the government of Ecuador, respectively, 114, 165, and 112.5 miles off the shore of Ecuador for fishing for tuna without Ecuadorean authorization. Ecuador claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on November 4, 1980, the Assistant Secretary of State certified the seizure of these three vessels as meeting the requirements of section 205(a)(4)(C) of the Act.

Determination

Under the authority of sections 205(b) and (c) of the Fishery Conservation and Management Act of 1976, on November 5, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Ecuador (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail. Tuna and tuna products processed in Ecuador to any extent, including packing in ice, will be considered tuna or tuna products from Ecuador. At this time, this prohibition does not extend to in-bond shipments to and through the United States.

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations and Information Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: November 14, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-36525 Filed 11-20-80; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

Awarding of Senior Executive Service (SES) Bonuses

AGENCY: Treasury Department.

ACTION: Notice of schedule for awarding SES bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Henry C. DeSeguirant, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, N.W., Washington D.C. 20220; Telephone > 566-2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives in the Bureaus of Government Financial Operations, Mint and Public Debt and in the Office

of the Comptroller of the Currency between November 21 and December 31, 1980. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (PL 95–454), codified in 5 U.S.C. 5384, and by section 303 of the Supplemental Appropriations and Rescission Act, 1980 (PL 96–304).

This notice does not meet the Department's criteria for significant regulations.

W. J. McDonald,

Assistant Secretary (Administration).

November 12, 1980.

[FR Doc. 80-36447 Filed 11-20-80; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Revised Routine Use Statement

1. Notice is hereby given that the Veterans Administration is revising a routine use statement that appears in four systems of VA records. The system names, routine use number, and date and page number of last publication in the **Federal Register** are as follows:

24VA136 Patient Medical Records—VA, #17, September 27, 1977, p. 49739.

38VA28 Veterans and Beneficiary Identification and Records Locator System—VA, #11, September 28, 1978, p. 44739.

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA, #21, September 28, 1978, p. 44740.

58VA21/22 TARGET—Compensation, Pension, Education and Rehabilitation Records—VA, #29, September 28, 1978, p. 44743.

The routine use statement in the above mentioned systems of VA records permits the disclosure of information in connection with administrative tort claims filed under the Federal Tort Claims Act to the Department of Justice and United States Attorneys, only. However, the Veterans Administration has determined that other Federal agencies may also require information from these systems of VA records to defend themselves against and prevent unmerited suits involving the United States Government. Accordingly, the routine use statement is being revised to permit disclosure of information to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claim Act, 28 U.S.C. section 2672. Release of information for this purpose is considered a necessary and proper use of data in these systems of records.

2. Notice is hereby given that the Veterans Administration is revising a routine use statement in four systems of VA records. The system names, routine use number, and date and page number of last publication in the **Federal Register** are as follows:

24VA136 Patient Medical Records—VA, #16, September 27, 1977, p. 49739.

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA, #24, September 28, 1978, p. 44740.

50VA22 Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA, #31, September 28, 1978, p. 44741.

58VA21/22 TARGET—Compensation, Pension, Education and Rehabilitation Records—VA, #32, September 28, 1978, p. 44743.

The current routine use statement that is being revised permits the disclosure of name(s) and address(es) from the above mentioned systems of VA records to Federal agencies, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency. In certain cases the government research is performed by a contractor(s) of the requesting Federal agency. The contractural procedures may make it strongly preferable that disclosure of VA records goes directly to the contractor(s), not via the Federal agency. Therefore, it has been determined that, the Veterans Administration can disclose name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents directly to contractor(s) of Federal agencies for the purpose of conducting government research, provided certain applicable conditions are met. These conditions include: (1) independent determination by the Veterans Administration as to whether disclosures should be made to a particular contractor, including consideration of the quality of need for the disclosure, the degree of invasion into personal privacy, and the purpose of the disclosure, and the integrity of the contractor for confidentiality purposes; (2) Brief Explanation of the contract, including identifying who the contractor is, the information to be disclosed to the contractor, and a copy of the contract if further clarification is needed; and (3) a statement that the contractor(s) and its subcontractor(s) are required to treat the information as confidential under their contract. Accordingly, the routine use statements in the above named systems of records are being changed to permit release of information for the purpose identified above. Release of information for this purpose is considered a necessary and proper use of data in these systems of VA records.

Interested persons are invited to submit written comments, suggestions, or objections regarding the revised routine use statements to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before Dec. 22, 1980, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until Jan. 2, 1981. Any person visiting the above address for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in VA Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised routine use statements are effective November 13, 1980.

Approved: November 13, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In the system identified as 24VA136, "Patient Medical Records—VA", appearing at 42 FR 49739, routine use statement numbers 16 and 17 are revised as follows:

24VA136

SYSTEM NAME:

Patient Medical Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

16. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a

disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

17. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

2. In the system identified as 38VA28, "Veterans and Beneficiary Identification and Records Locator System—VA", appearing at 43 FR 44739, routine use statement number 11 is revised as follows:

38VA28

SYSTEM NAME:

Veterans and Beneficiary Identification and Records Locator System—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

11. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

3. In the system identified as 49VA21, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 43 FR 44740, routine use statement numbers 21 and 24 are revised as follows:

49VA21

SYSTEM NAME:

Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

21. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

24. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

4. In the system identified as 50VA22, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 43 FR 44741, routine use statement number 31 is revised as follows:

50VA22

SYSTEM NAME:

Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Record—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

31. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

5. In the system identified as 58VA21/22, "TARGET—Compensation, Pension, Education and Rehabilitation Records—VA", appearing at 43 FR 44743, routine use statement numbers 29 and 32 are revised as follows:

58VA21/22

SYSTEM NAME:

TARGET—Compensation, Pension, Education and Rehabilitation Records—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

29. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

32. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

[FR Doc. 80-36357 Filed 11-20-80; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, November 25, 1980.

PLACE: Commission conference room, 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:

1. Proposed Field Structure for Office of Government Employment.
2. Proposed Amendment to a Litigation Support Contract.
3. Amendment to Statement Concerning Processing of Charges Against State and Local Agencies.
4. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued November 18, 1980.

[S-2126-80 Filed 11-19-80; 3:31 pm]

BILLING CODE 6570-06-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2 p.m., November 25, 1980.

PLACE: Hearing Room One, 1100 L Street NW., 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. Agreement No. 10380: Medafrica-Nigeria America Shipping Line Limited Joint Service.
2. Agreement No. 10399: Settlement Agreement among Moore McCormack Lines, Inc., Empresa Lineas Maritimas Argentinas, S.A., and A/S Ivarans Rederi in the Argentina/U.S. Atlantic trade.
3. Proposed Revocation of Commission General Order No. 44—Exemption of Collective Bargaining Agreements.
4. Special Docket No. 683: Application of Flomerca Line for the Benefit of U.S. Department of Agriculture, A.S.C.S. Commodity Office—Consideration of the Record.
5. Docket No. 80-48: Appeals of Denials of Requests for Information—Consideration of Proposed Final Rule.
6. Commission Order 87: Internal Procedures for Review, Discussion and Final Decision in Formal Proceedings and Disposition of Petitions, Motions and Appeals—Consideration of Proposed Revisions.
7. Docket No. 80-45: Agreement Nos. 10386, As Amended, 10388, 10382, As Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of Revision to Order Instituting Proceeding.

Portions closed to the public:

1. Promotional Activities of Royal Hawaiian Cruises, Inc.
2. Docket No. 80-3: Continental Forwarding, Inc., Independent Ocean Freight Forwarder License Application and Possible Violations of Section 44, Shipping Act, 1916—Consideration of the Record.
3. Contract Marine Carriers, Inc.—Possible Violation of Sections 16, Second, and 18(b)(3), Shipping Act, 1916.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2123-80 Filed 11-18-80; 4:20 pm]

BILLING CODE 6730-01-M

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, November 24, 1980.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Borg-Warner Corporation, et al., Docket 9120.

Portions closed to the Public:

(2) Executive session to discuss oral argument in Borg-Warner Corporation, et al., Docket 9120.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2124-80 Filed 11-19-80; 9:59 am]

BILLING CODE 6750-01-M

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, December 3, 1980.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of proposed final clearance rules.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2125-80 Filed 11-19-80; 10:00 am]

BILLING CODE 6750-01-M

5

NATIONAL COUNCIL ON THE HANDICAPPED.

TIME AND DATE: 9 a.m.-5 p.m., Monday, December 15, 1980, and 9 a.m.-5 p.m., Tuesday, December 16, 1980.

PLACE: Sheraton National Hotel, (703) 521-1980, Washington Boulevard and Columbia Pike, Arlington, Virginia 22204.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Orientation to the National Institute of Handicapped Research (NIHR) programs, policies and activities.
2. Discussion of NIHR Plan.

CONTACT PERSON FOR MORE INFORMATION: Carol Berman, National Council on the Handicapped, (202) 245-3498.

Carol Berman,

Executive Secretary.

[S-2122-80 Filed 11-18-80; 4:04 pm]

BILLING CODE 4000-01-M

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Federal Register

Vol. 45, No. 227

Friday, November 21, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

69888 10–22–80 / Ambient air quality surveillance; Fla.; air quality surveillance plan

FEDERAL COMMUNICATIONS COMMISSION

69460 10–21–80 / FM broadcast stations in De Soto and Potosi, MO; changes made in table of assignments

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing—

62797 9–22–80 / Housing assistance for new construction and substantial rehabilitation; tax exemption

INTERIOR DEPARTMENT

Land Management Bureau—

70204 10–22–80 / Federal installations; implementation of section 3(e) of the Alaska Native Claims Settlement Act

NUCLEAR REGULATORY COMMISSION

69877 10–22–80 / Changes in rules of practice governing discipline in adjudicatory proceedings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

Code of Federal Regulations

Revised as of July 1, 1980

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		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).

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77258 Part II—USDA/FNS:
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77270 Part III—Labor/ESA:
Minimum Wages for Federal and Federally Assisted Construction

77332 Part IV—EPA:
Proposed Environmental Test Standards; Physical, Chemical, Persistence, and Ecological Effects Standards, Proposed Good Laboratory Practice Standards

77368 Part V—ED:
Transfer and Redesignation of ED Regulations

77372 Part VI—HHS/NIH:
Recombinant DNA Research; Actions Under Guidelines

77384 Part VII—HHS/NIH:
Research Involving Recombinant DNA Molecules; Guidelines

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Part II

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Federal Sanctions and State Agency Liabilities; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 276

[Amdt. No. 168]

Food Stamp Program; Final Rule—Federal Sanctions and State Agency Liabilities

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final and emergency final rules.

SUMMARY: These final regulations define the activities related to the Food Stamp Program for which State agencies will be held financially liable. They also set forth the types of sanctions the Food and Nutrition Service (FNS) may impose in order to collect financial losses and enforce compliance with the Food Stamp Act, regulations and FNS approved State Plans of Operation. In addition, this rulemaking establishes an administrative review process through which State agencies can appeal claims filed against them by FNS.

All of the provisions of these regulations are being issued as final rules except the provisions pertaining to the administrative review process. Due to the extensive changes that have been made in the administrative review provisions, they are being issued as interim final. They will be effective along with the other provisions. However, comments will be accepted for sixty days and final administrative review rules will be issued in the future.

DATES: These rules are effective on December 22, 1980.

Comment period: Comments on the administrative review provisions (§276.7) of this rulemaking must be received on or before January 21, 1981, to be assured of consideration.

ADDRESS: Comments should be sent to: Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street SW., Washington, D.C., Room 698.

FOR FURTHER INFORMATION, CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202–447–9075. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request for the above named individual.

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

Background

In the June 8, 1979 **Federal Register** (44 FR 33380, et seq.), the Department issued an emergency rulemaking implementing several miscellaneous amendments and interpretations of the food stamp regulations that had been issued in the October 17, 1978 **Federal Register** (43 FR 47846, et seq.). Two of those amendments pertained to State agency liabilities and Federal sanctions. The first implemented Section 11(h) of the Food Stamp Act of 1977 (7 U.S.C. 2020) giving the Secretary the authority to demand payment from State agencies of Federal monies lost as the result of negligence or fraud on the part of the State agencies in the certification of applicant households. The second amendment implemented the provisions of Section 14 of the Act (7 U.S.C. 2023) which required that State agencies aggrieved by claims issued by FNS be given opportunities to have the claims reviewed through an administrative review process. These two provisions of the overall State agency liability and Federal sanction process were issued as emergency rules because of the imminent implementation of other regulations implementing the Act.

In the November 9, 1979 **Federal Register** (44 FR 65318), the Department proposed a set of rules to implement all of the State agency liability and Federal sanction provisions of the Act. That proposed rulemaking included, almost verbatim, the negligence and administrative review rules that were issued on June 8, 1979. The Department did this so that readers would be able to comment on the entire package of sanction and liability rules being issued pursuant to the Act. In addition to the negligence and administrative review regulations, the proposed rules contained provisions pertaining to absolute State agency liabilities, injunctive relief, and the suspension and disallowance of State agency administrative funds.

The Department received two sets of comments on the sanctions and liabilities regulations. The first set came in response to the June 8, 1979 emergency rulemaking, the second set in response to the November 9, 1979 proposed rulemaking. All pertinent comments concerning both rulemakings were taken into consideration in developing these final rules.

General

The Food Stamp Act of 1977, as amended, provides for injunctive relief and the suspension and disallowance of administrative funds to enforce compliance with the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plans of Operation, which includes the FNS-approved State Operating Guidelines. The Act also established two categories of State agency liability with respect to agency operation of the Program. Section 7(f) (7 U.S.C. 2016(f)) of the Act makes State agencies liable for issuance losses, while Section 11(h) makes State agencies liable for certification losses due to negligence or fraud in the State agencies' operations.

In developing these final rules, the Department tried to delineate, as clearly as possible, the liability of the State agencies, the use of sanctions available to FNS, and the procedures State agencies must follow to obtain an administrative review of claims filed against them.

Since issuance of the proposed regulations on November 9, 1979, Congress has enacted new legislation (Pub. L. 96–249, Sec. 120, 94 Stat. 362, May 26, 1980) which clarifies the tools available to the Department to enforce compliance with the Act. Section 11(g) of the 1977 Act, as amended, now makes clear that the Secretary has authority to seek injunctive relief and/or withhold administrative funds from a State if he finds a State agency failed to comply with any provisions of the Food Stamp Act, the regulations issued pursuant to the Act, or the State Plan of Operation. In fact, Section 11(g) contains a requirement that the Secretary withhold administrative funds, in an amount he deems appropriate, if he determines that a State agency has failed to comply with any provisions of the Act, regulations, State Plan, or standards for efficient and effective administration. The standards for efficient and effective Program administration were defined in the Performance Reporting System rules (45 FR 15884 et. seq.) as the provisions of the Act, regulations and FNS-approved State Plan of Operation.

In devising the proposed regulations, the Department assumed it had the authority to sanction State agencies, whether or not it chose to seek injunctive relief through referral to the Attorney General. Pub. L. 96–249 confirms this authority. The House Committee Report on the Food Stamp

Act Amendments of 1980 (Pub. L. 96–249) states:

"The Department's proposed and disputed regulations of November 9, 1979, are consistent with the Committee's approach and the language of the section and legislative history as well * * * (T)he Committee has decided to revise and clarify the sanctions provisions of the 1977 Act, essentially collapsing the liability provisions of section 16(b) and 11(g) in order to make the Secretary's options as clear as they already should be." House Rpt. No. 96–788 (House Report) 96th Cong., 2nd Sess., p. 140.

The final regulations retain the broad authority described in the proposed regulations for the Department to enforce State agency compliance with the Act, regulations, and State plans. The final regulations also retain the flexibility allowing the Secretary to seek injunctive relief and/or withhold administrative funds from a State agency, simultaneously or in sequence, to assure proper State agency performance.

The Department recognizes that the law and these regulations provide broad, sweeping authority for the Secretary to sanction State agencies for failure to comply with innumerable Program requirements. The Department agrees with State agency comment that a primary method for achieving State agency compliance with the law should be informal discussion and conciliation. The Department has no intention of utilizing the sanction process to enforce absolute compliance with every Program requirement no matter how minor it may be.

It is the intention of the Department to utilize its authority to sanction State agencies in a reasonable manner. While the use of this authority may vary from situation to situation, the use of sanctions will not ordinarily be the first approach employed by the Department to achieve satisfactory State agency performance in the administration of the Program. The Department fully understands that a heavy-handed use of sanctions can be, in the long run, antithetical to the Program's best interests.

State Agency Liabilities

Section 7(f) of the Act states that: "Notwithstanding any other provision of this Act, the State agency shall be responsible to the Secretary for any financial losses involved in the acceptance, storage and issuance of coupons." (7 U.S.C. 2016(f) (Supp. I 1977)). This section of the final rules sets forth the types of financial losses for which State agencies will be held liable.

Only a few of the comments addressing this section of the proposed rules offered specific suggestions for change. Those adopted were aimed at the overall goal of clarifying the rules. For example, the proposed rules specified that State agencies would be held liable for "duplicate ATP transactions caused by State agency error." At the suggestion of FNS' Mountain Plains Regional Office, this has been changed to "the duplicate issuance of benefits caused by State agency error." The Department made this change recognizing that it did not intend to absolve State agencies with HIR card issuance systems of liability for duplicate issuances due to State agency error. However, we have added a caveat that State agencies will not be held liable for the duplicate transaction of ATP cards if the duplicate transactions occurred as a result of events beyond the State agency's control. This is necessary because duplicate transactions, by their very nature, do not lend themselves to a strict liability approach. Some duplicate transactions may occur, for example, if ATP cards are stolen and cashed. As a result, duplicate issuances that are beyond the practical preventive ability of the State are not considered a State agency liability by these regulations. At the same time, State failure to install proper issuance controls can increase duplicate transactions beyond a "non-preventable" level. States would be liable for such duplicate transactions.

Two comments recommended that the Department delete the provision holding State agencies liable for coupons lost in disasters, to the extent that the State agency could not show that the coupons were destroyed and not redeemed. This suggestion was not adopted since the Department reasoned that the occurrence of disasters did not relieve State agencies of their responsibility to account for coupons in their possession. However, the wording of the provision in the proposed rules did appear to be more stringent than the Department intended. Therefore, the Department reworded the provision so that it now reads that State agencies will be held liable for coupons lost in disasters unless they can provide reasonable evidence that the coupons were destroyed and therefore not redeemed. The Department does not anticipate that this provision will be invoked very often. In the past, the same provision was used very infrequently and only when a situation arose in which it was clear that coupons missing after a disaster had not been destroyed in the disaster. No change in the frequency of use is envisioned.

The major change in this section is the result of the Department's changes in the definition of negligence. The definition of negligence included in the June 8, 1979 emergency rulemaking and in the November 9, 1979 proposed rulemaking gave the Secretary authority to bill State agencies for financial losses resulting from State agency negligence in certification and issuance activities. Several commenters objected to this definition, noting that Section 11(h) of the Act gave the Secretary the authority to bill State agencies only for losses due to negligent certification actions. These commenters believed that the emergency and proposed regulations exceeded statutory authority in that they applied the authority to bill for losses due to negligence in activities other than certification. This viewpoint was buttressed by legislative history in the House Committee on Agriculture's Report accompanying the 1980 Amendments to the Food Stamp Act (Pub. L. 96–249). It was noted in that Report that the Secretary could respond to State agency noncompliance with Program requirements by making "* * * a negligence claim (but only if the program failure related to household certification)" or by holding "* * * States strictly liable for financial losses (but only if losses occurred in the issuance functions) * * *" (House *Report*, p. 139).

Acting on the arguments raised from these two sources, the Department has narrowed the definition of negligence. The definition now clearly subjects certification functions to the negligence provisions, while clearly identifying issuance functions as being subject to the absolute liability provisions. Consequently, there are several differences between the proposed and final rules in this section. Liability for overissuances to households who received benefits after their certification periods expired, overissuances caused by State agency failure to process promptly public assistance changes, and overissuances assessed due to missing documentation such as casefiles, has been deleted from the strict liability section.

A second major change in this section was made in the provisions applicable to court suit liabilities. The changes are due to the reorganization and clarification of the rules. The State agencies' responsibilities for acting and reporting on court suits that they become involved in have been deleted from § 276.2 of the rules and included in § 272.4(f). Thus, Part 276 does not contain any rules other than rules

directly related to State agency liabilities and Federal sanctions.

A final issue bearing discussion is the objection raised by several commenters to the idea of "absolute" or "strict" liability for financial losses involved in issuance. The Texas State agency recommended that a tolerance limit be established which would have to be exceeded by a State agency before assessment of liability.

The South Carolina State agency suggested that liability be limited to instances in which a State agency was found guilty of gross negligence, while the Kentucky State agency suggested it be limited to instances in which State agency mismanagement was involved. The California State agency asked that a good cause provision be included in the rules.

The Department considered these suggestions but did not adopt them because neither the statute nor the related legislative history support the inclusion of a tolerance limit or good cause provision in the issuance sanction rules. A close examination of the law reveals that it is the lack of a tolerance level or good cause provision in the issuance sanction rules that separates those rules from the certification sanction rules. There is an implicit good cause provision inherent in the certification sanction rules, since those rules require that the Secretary make a determination of negligence prior to assessing liability to a State agency. There is no absolute or strict liability applied to certification operations and there is no good cause provision in the issuance sanction rules. Rather, Congress intended that State agencies be held liable for "* * * any financial losses involved in acceptance, storage, and issuance of coupons." (Section 7(f), Food Stamp Act of 1977, as amended). This intent was echoed in the House Committee Report on the 1980 Amendments to the Food Stamp Act of 1977 where it is noted that the Secretary can "* * * hold States *strictly liable* for financial losses * * *" that occur in issuance functions (Emphasis added, House Report, p. 139). Therefore, absolute or strict liability has been retained with regard to issuance operations.

Negligence or Fraud

Many of the comments submitted on the negligence and fraud section of the proposed and emergency regulations contained objections to the definition of negligence. Most of these comments stated that the definition was too broad and/or imprecise. In response, the Department narrowed the definition of negligence by deleting all references to issuance. As explained above, issuance activities will be subject to the absolute liability provisions of the rules while certification activities will be subject to the negligence provisions. This narrows the scope of the definition. As set forth in these final rules, a State agency can be found negligent if there is a loss of Federal funds due to the State agency's disregard of Federal requirements contained in the Act, the regulations, or the FNS-approved State Plan of Operation. Additionally, a State agency may be found negligent if it implements, without first obtaining FNS approval, procedures that deviate from procedures required in these sources and result in a loss of Federal funds. Thus, if a State agency fails to implement a regulatory change and that failure results in a loss of Federal funds, the State agency may be charged with negligence and a claim for the lost funds may be filed. Likewise, if a State agency, without first obtaining FNS approval, implements new verification procedures that are different from the verification procedures prescribed by the Department and the new procedures result in a loss of Federal funds, the State agency may be found negligent and a claim for the lost funds may be filed.

Deleted from the definition is the provision that authorized FNS to determine a State agency to be negligent if the State agency failed to maintain proper controls over certification functions and the failure resulted in a loss of Federal funds. This latter provision was deleted primarily due to the Department's concern that it duplicated the Quality Control Sanction System. (Rules to establish this system, which was mandated by Section 126 the 1980 Amendments to the Food Stamp Act (94 Stat. 364), were proposed in the October 3, 1980 **Federal Register**). The Department does not intend to establish sanctions requiring that State agencies be held liable and billed twice for the same deficiencies. The deletion of this particular provision should make this clear. However, if situations arise where there are overlaps in liability provisions, the Department will not double-bill State agencies.

Several commenters objected to the provision that authorized FNS to use statistically valid projections in determining the amount of loss caused by a State agency's negligence. Most of these commenters requested that the provision be eliminated; some suggested that it be expanded to explain the techniques that would be used. The Department decided to retain the provision. (It should be noted, however, that a similar provision in the proposed State agency liabilities section was deleted when certification losses were deleted from that section.) It is the Department's position, supported by its Office of the Inspector General, that statistically valid projections provide an accurate view of the extent of deficiencies in a State agency's operations and that they also present accurate projections of the amounts of loss resulting from the deficiencies. The Department did include a basic description in the rules of the techniques that will be used in making statistical projections. Whenever a statistical projection is made it will be made using a 95 percent, one-sided confidence level. In other words, after a sample is completed a range of loss will be established such that it can be predicted, with 90 percent certainty, that the actual loss is within the range. If a billing is made, the billing will be for the lowest amount in the range. Thus, it can be predicted, with 95 percent certainty, that the actual loss is either the billed amount or higher.

Some commenters suggested that the Department include a tolerance limit in the negligence definition. Others suggested that a good cause provision be included. Still others requested that the Department describe in the regulations the procedures that would be used in determining whether a State agency had been negligent. The common theme underlying all of these comments was a concern that the Department would use negligence sanctions on a frequent basis in response to very minor certification deficiencies.

It was pointed out in the preamble to the proposed regulations that "(w)hile the regulations reflect the legislative change from gross negligence to negligence, the Department does not intend to establish a negligence billing for all losses of Federal funds. Consideration would be given to the circumstances causing the loss and the steps the State agency took to prevent the loss from recurring before determining negligence." (44 FR 65323). The Department has no plans to initiate or follow a different course of action. Thus, readers should be assured that minor certification deficiencies discovered by the Department will not result in negligence billings. Additionally, it should be noted that, given the policy stated above, the Department cannot issue a negligence charge where there is good cause for overissuances; good cause is an implicit but inherent aspect of negligence.

Collection of Claims

The proposed rulemaking contained provisions that specified procedures for

payment of absolute liability and negligence claims. In both provisions it was noted that State agencies would be billed for appropriate amounts and asked to remit payment of the losses. If payment was not made, the provisions allowed FNS to recover the amount of the claims through offsets to the State agencies' Letters of Credit. Several commenters objected to this recovery method. They noted that if offsets were used, services to participants and applicants could suffer from the decrease in administrative funds. Some commenters contended that the offset method of recovering absolute liability claims and negligence claims was not provided for in the Food Stamp Act and, therefore, legally could not be used.

The Department carefully considered these comments but decided to retain the provisions as proposed. The Department realizes that the offset method of collecting claims could have detrimental effects on a State agency's administration of the Program. Therefore, it is hoped that State agencies that receive claims will remit payments for them and avoid offsets. If an offset is required, however, FNS has the authority to recover the claim in a single offset or in a series of offsets spread over a period of up to three years. This ability to spread out the offsets, thereby reducing the size of each one, minimizes the negative impact the offsets would have on State agency operations.

The Department disagrees with the contention that it lacks the authority to offset absolute liability and negligence claims. While no authority to offset is specifically mentioned in the Food Stamp Act, the Department believes it extends from the Secretary's authority to issue regulations necessary for the efficient and effective operation of the program (Section 4(c) of the Act) and from the Federal Claim Collection Act of 1966. This view is supported by the House Committee Report which states, in part, that: "* * * the Secretary could send a billing or collect funds *through offset* under the strict liability or negligence provisions in accordance with the Federal Claims Collection Act of 1966, which is applicable to all Federal claims whether or not specifically referred to in a particular statute." Emphasis added, House Report, p. 142.

Suspensions and Disallowances

This section of the regulation describes the types of sanctions that may be used if the Department determines that a State agency is operating the Program in an inefficient or ineffective manner, i.e., is out of compliance with any provisions of the Act, regulations, or FNS-approved State Plan of Operation. This section also explains the procedures that the Department will follow should it be necessary to use these sanctions.

In general, the comments which addressed the provisions of this section supported the proposed rules. However, there were some concerns raised and suggestions made with regard to the warning procedures of the rules.

The previous warning process was a two step process that included informal and formal warnings, each followed by periods of at least 30 days in which State agencies could take corrective action to eliminate the deficiency and avoid a suspension or disallowance of administrative funds. The Department's experience with this process demonstrated that it often resulted in long delays before corrective action was taken, and thus was not always responsive to problem situations.

The Department tried to design a warning process that could be more responsive to problem situations. Thus, the previous informal warning with its automatic 30 day corrective action period was replaced by an advance notification with a corrective action period of unspecified length. The length of time would be decided by FNS at the time of issuance of the advance notification and determined by the circumstances at hand. Further, the proposal would have allowed the Department to dispense with the advance notification and immediately issue a formal warning if the problem involved a State agency's failure to meet the commitments made in an approved corrective action plan. (Since the State agency already knew of problems in these instances and had formulated corrective action, it was reasoned that an advance notification was not necessary.)

Several commenters objected to these changes, recommending that advance notifications always be issued before formal warnings, and that the Department establish a specified period of time which must elapse between the issuance of an advance notification and a formal warning. One commenter suggested that this time period be 30 days. Since the adoption of these suggestions would essentially result in the retention of the previous warning process, one which had proven to be unresponsive in some cases, the Department rejected the suggestions.

Other commenters recommended that advance notifications and formal warnings specify what action needed to be taken to correct the noted deficiency and, thus, avoid the suspension or disallowance of funds. State agencies are in the best position to determine what actions will be most effective to correct a deficiency in their administration of the Program. Therefore, State agencies remain responsible for formulating such action.

Injunctive Relief

The injunctive relief provisions of the proposed regulations have been retained in the final rules. Very few comments were received suggesting changes in these provisions. Two commenters suggested that the Department rely on injunctive relief as the primary tool for enforcement of compliance with Program requirements. The Department did not incorporate this suggestion into the regulations. As was pointed out earlier, it was Congress' intent in providing several compliance tools to give the Secretary flexibility in deciding how best to bring a State agency into compliance with Program requirements. See House Report, pp. 138–139. Therefore, no change was made in the rules that would limit this flexibility.

Good Cause

The proposed rulemaking did not contain a specific definition of "good cause" as it would be applied to sanctions. This did not mean that the Department would not consider good cause in the application of sanctions. Rather, the Department determined that the mechanism used in asserting claims, the warning process, allowed State agencies to show good cause. As the preamble to the proposed rulemaking noted: "* * * the Department is proposing to retain a warning process * * * to ensure that States have the opportunity to correct problems prior to losing the Federal share of administrative funds through a sanction process." (44 FR 65323)

Several commenters acknowledged this position but requested that the Department go further and actually define good cause as it would apply to the sanction process. As these commenters pointed out, the opportunity for State agencies to show good faith efforts to correct noncompliance was not adequate to allow all good cause conditions to be taken into account.

The House Report to the 1980 Food Stamp Amendments, Pub. L. 96–249, contains legislative history supporting the commenters. In a description of how the sanction process is to work, the Report states that: "The State would be given an adequate opportunity in an appropriate administrative setting to make a showing of good cause for failure to comply * * *. "Good cause" would be defined by regulations

promulgated by the Secretary but would not encompass a lack of resources that the State has the ability to remedy and would include external impossibility or programmatic inconsistency." House Report, p. 142.

In light of the comments received and the legislative history of Pub. L. 96–249, the Department developed a good cause provision that will apply to the use of injunctive relief and the withholding of administrative funds for failure to meet efficiency and effectiveness standards. The good cause provision is not applicable to the absolute liability rules nor to the negligence rules. The Department determined that Congress did not intend to have the good cause provision applied to absolute liability situations and that, as explained above, it is the lack of a good cause provision that sets these liabilities apart. The Department is not applying the good cause provisions to negligence claims since, as explained above, a lack of good cause is inherent in the use of the negligence sanction.

As developed, the Department will determine good cause on a case-by-case basis; i.e., each case will be evaluated against the good cause criteria in the definition of good cause before seeking injunctive relief or suspending or disallowing funds. By applying the good cause criteria in this manner, the Department retains the flexibility it needs to make honest and accurate determinations as to whether or not good cause exists. This should work to the advantage of both State agencies and the Department.

The good cause definition included in the rules is general. It is intended to be general so that the flexibility needed for its equitable use will be enhanced. Readers should not assume however, that the general nature of the definition will lead to nearly automatic findings of good cause. As stated above, the Department fully intends to evaluate each case against the criteria before determining whether good cause exists.

Generally, the criteria in the good cause provision follow the reasoning of the language in the House *Report*. Thus, good cause will include things outside State control, such as natural disasters and strikes, and will not include things within State control, such as lack of resources. In the application of the criteria, the mere existence of a situation specified in the good cause provision will not result in a finding of good cause. For example, the occurrence of a natural disaster does not necessarily mean that a State agency had good cause for failing to comply with food stamp administrative requirements. Thus, if a State agency fails to use correct procedures during a disaster, the Department might seek to sanction the State agency.

Administrative Review Process

Many commenters offered suggestions for changes in the administrative review process. Most of these commenters were concerned that rights and responsibilities were not clear. Taking these comments into account, the Department revised the rules establishing the administrative review process. Since these provisions were extensively rewritten, this portion of the rulemaking is being issued as interim final. It will go into effect with the other provisions. The Department is accepting comments on these provisions and will publish final administrative review rules in the future.

One particular aspect of the review process, which seven commenters addressed, involved the impartiality of the review official. The commenters recommended that the final rules guarantee that the review authority be an impartial third party. The proposed administrative review rules did not specify whether the official designated by the Secretary would be an impartial third party. In the preamble to those rules, however, the Department stated that the review authority designated by the Secretary could be someone with a prior knowledge of the case being reviewed. The Department accepted this recommendation and these final rules require that the review authority be a "neutral third party" (§ 276.6(h)(i)). This does not mean that the reviewing officials may not be employees of the Department of Agriculture. Secretary's Memorandum No. 2003, Revised, dated January 3, 1980, which establishes the State Food Stamp Appeals Board, provides that "Persons who are officers or employees of the Department of Agriculture or any of its constituent agencies, except FNS, as well as other Federal officers or employees, may serve on the Appeals Board. Persons who are not employed by the Federal Government may also be asked to serve on the Appeals Board. However, no person who has been associated with the case being appealed shall serve as an Appeals Board member." The rules prohibit anyone involved in the original decision to file a claim from reviewing the appeal of the claim. This will ensure that impartiality is maintained so that reviews of claims are conducted in as equitable a manner as possible.

Many of the comments received suggested specific changes in the processing of appeals. One of these was that State agencies be given the right to an in-person hearing on all claims that are appealed. The Department accepted this suggestion. As proposed, State agencies had the right to a personal hearing if they appealed negligence claims or disallowances of funds. Thus, the suggestion was that they be given the right to an in-person hearing of appeals of issuance claims. Since these claims will generally be disputes of records such as accountability and inventory reports, the Department does not foresee that in-person hearings will be necessary to reach equitable decisions. The Department believes that in these cases a review of the disputed records along with any other information provided by the State agency will be adequate. However, to ensure that the appeals process is as equitable as possible, the Department will grant State agencies the option of having in-person hearings or reviews of records on all appeals. The rules provide for two types of hearings: hearings before the full Appeals Board and hearings before single hearing officials. Generally, appeals of negligence claims and disallowances of administrative funds will be heard by the full Appeals Board while appeals of other claims, those that would not have had hearings, will be heard by single hearing officials. The rules will allow, however, full Appeals Board hearings of issuance claims and single hearing official hearings of negligence claims and disallowances.

Other commenters recommended that suspension of administrative funds be included as claims that are "appealable." The Department did not accept this recommendation. A suspension is not a claim in any way that billings for issuance losses, negligence charges or disallowances are claims. Since State agencies can have their suspended administrative funds restored by correcting the deficiencies that led to the suspension the Department decided not to include suspensions in the administrative review process. Should a State agency fail to take action to correct a deficiency thereby causing a suspension to become a disallowance the State agency can appeal the disallowance.

Several commenters requested that the Department revise the time limits included in the rules for requesting reviews and submitting supportive information. The proposed procedures gave State agencies 10 days from the filing of a claim by the Department to request a claim. These rules also proposed giving State agencies 10 days from the date the request for appeal was acknowledged for State agencies to submit any additional information they

had. The final rules alter these time frames. State agencies still must file a request for an appeal within 10 days of receiving a claim. This 10 day limit is set in section 14 of the statute (7 U.S.C. 2023 (Supp. I 1977)) and cannot be changed. Requests for appeals filed later than 10 days after receipt of a claim cannot be granted. However, State agencies that request appeals in a timely manner shall have 30 days from the date they submit their request for appeal in which to submit any additional information they want to submit. This should give State agencies time to assemble any data and other supportive information they may have.

Other changes in these timeliness requirements were also included in the rules. For instance, the rules now require that State agencies be notified of hearings at least 10 days prior to their occurrence. They also allow State agencies to postpone hearings, provided there is good cause.

The Department made other changes in the rules, all designed to clarify the procedures and specify State agencies' rights and responsibilities. These are all self-explanatory.

Implementation

These rules are effective on December 22, 1980. From that date forward, incidents resulting in claims or injunctive relief shall be subject to the sanctions and liabilities provisions presented here. As of that date the changes made in the administrative review process will be in effect as well.

Accordingly, Parts 272 and 276 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Subparagraph (18) is added to § 272.1 (g) and paragraph (f) is added to § 272.4. Both read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

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(18) *Amendment 168.* The provisions of amendment 168 shall be effective on the thirtieth day following their publication. Any claims filed against State agencies for incidents that occur after the publication of this amendment shall be filed in accordance with the provisions of this amendment. Any claims filed against State agencies for incidents that occurred prior to the publication of this amendment shall be filed in accordance with the rules in effect at the time they occurred. However, the administrative review procedures contained in this amendment shall be applicable to all claims that are filed after the effective date of this amendment.

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§ 272.4 Program administration and personnel requirements.

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(f) *Court suit reporting.* (1) State agency responsibility.

(i) In the event that a State agency is sued by any person(s) in a State or Federal Court in any matter which involves the State agency's administration of the Food Stamp Program, the State agency shall immediately notify FNS that suit has been brought and shall furnish FNS with copies of the original pleadings. State agencies involved in suits shall, upon request of FNS, take such action as is necessary to join the United States and/or appropriate officials of the Federal Government, such as the Secretary of USDA or the Administrator of FNS, as parties to the suit. FNS may request to join the following types of suits:

(A) Class action suits;

(B) A suit in which an adverse decision could have a national impact;

(C) A suit challenging Federal policy such as a provision of the Act or regulations or an interpretation of the regulations; or,

(D) A suit based on an empirical situation that is likely to recur.

(ii) FNS may advise a State agency to seek a settlement agreement of a court suit if the State agency is being sued because it misapplied Federal policy in administering the Program.

(iii) State agencies shall notify FNS when court cases have been dismissed or otherwise settled. State agencies shall also provide FNS with information that is requested regarding the State agency's compliance with the requirements of court orders or settlement agreements.

(2) FNS shall notify all State agencies of any suits brought in Federal court that involve FNS' administration of the Program and which have the potential of affecting many State agencies' Progam operations. (State agencies need not be notified of suits brought in Federal Court involving FNS' administration of the Program which may only affect Program operations in one or two States.) The notification provided to State agencies shall contain a description of the Federal policy that is involved in the litigation.

(91 Stat. 958 (7 U.S.C. 2011–2027))

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

In Part 276, §§ 276.1, 276.2, 276.4 and 276.5 are added; § 276.3 is revised; § 276.6 is revised and renumbered § 276.7; and a new § 276.6 is added. With these additions and revisions Part 276 is revised to read as follows:

Sec.

276.1 Responsibilities and rights.
276.2 State agency liabilities.
276.3 Negligence or fraud.
276.4 Suspension/disallowance of administrative funds.
276.5 Injunctive relief.
276.6 Good cause.
276.7 Administrative review process.

Authority: 91 Stat. 958, (7 U.S.C. 2011–2027).

§ 276.1 Responsibilities and rights.

(a) *Responsibilities.* (1) State agencies shall be responsible for establishing and maintaining secure control over coupons and cash for which the regulations designate them accountable. Except as set forth in § 276.2(c)(iv), any shortages or losses of coupons or cash shall be a strict State agency liability and the State agency shall pay to FNS, upon demand, the amount of the missing coupons or cash regardless of the circumstances of the loss.

(2) State agencies shall be responsible for preventing losses of Federal funds in the certification of households for participation in the Food Stamp Program. If FNS makes a determination that there has been negligence or fraud on the part of a State agency in the certification of households for participation in the Food Stamp Program, FNS is authorized to bill the State agency for an amount equal to the amount of coupons issued as a result of the negligence or fraud.

(3) State agencies shall be responsible for efficiently and effectively administering the Program by complying with the provisions of the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plan of Operation. A determination by FNS that a State agency has failed to comply with any of these provisions may result in FNS seeking injunctive relief to compel compliance and/or a suspension or disallowance of the Federal share of the State agency's administrative funds. FNS has the discretion to determine in each instance of noncompliance, whether to seek injunctive relief, to suspend or disallow administrative funds, to do both together, or to do each in sequence.

(b) *Rights.* State agencies have the right to appeal all claims brought against them by FNS and be afforded an

administrative review by a designee of the secretary. State agencies also have the right to seek judicial review of any final administrative determination made by the secretary's designee.

§ 276.2 State agency liabilities.

(a) *General Provisions.* Notwithstanding any other provision of this subchapter, State agencies shall be responsible to FNS for any financial losses involved in the acceptance, storage and issuance of coupons. State agencies shall pay to FNS, upon demand, the amount of any such losses.

(b) *Coupon shortages, losses, unauthorized issuances and overissuances.* (1) State agencies shall be liable for coupon shortages and losses that occur after coupons have been accepted by receiving points within the State and that occur during the movement of coupons between bulk storage points and issuers within the State. State agencies shall also be liable for certain unauthorized issuances.

(2) Coupon shortages and/or losses for which State agencies shall be liable include, but are not limited to, shortages and losses due to the following:

(i) Thefts;

(ii) Embezzlements;

(iii) Cashier errors (e.g., errors by the personnel of issuance offices in the counting of coupon books);

(iv) Coupons lost in natural disasters if a State agency can not provide reasonable evidence that the coupons were destroyed and not redeemed; and,

(v) Unexplained causes.

(3) State agencies shall be liable for the following unauthorized issuances:

(i) The acceptance of expired ATP cards;

(ii) The acceptance of out-of-State ATP cards;

(iii) The acceptance of ATP cards lost by, stolen or embezzled from the State agency or from any point under agreement or contract with the State agency; and,

(iv) The duplicate issuance of benefits caused by State agency error in those circumstances where the duplicate issuances could have been prevented by the State agency.

(4) State agencies shall be liable for the following overissuances of coupons:

(i) Overissuances that occur due to State agency failure to comply with a directive, issued by FNS in accordance with the provisions of § 271.7, to reduce, suspend or cancel allotments;

(ii) Overissuances that occur as a result of a court order or settlement agreement of a courtsuit that was not reported to FNS in accordance with the provisions of § 272.4(f), and,

(iii) Overissuances resulting from a State agency entering into an out-of-court settlement of a courtsuit which violates Federal law or regulations.

(5) Coupon shortages and losses shall be determined from the Food Coupon Accountability Report (Form–250) and its supporting documents, and from the Reconcilation Report (Form FNS–46). Losses of Federal monies resulting from overissuances shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(f). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

(d) *State agency payment to FNS.* State agencies shall be billed for the exact amounts of losses specified in this section. If a State agency fails to pay the billing FNS may offset the amount of loss from the State agency's Letter of Credit in accordance with § 277.16(c).

§ 276.3 Negligence or fraud.

(a) *General.* If FNS determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State agency shall, upon demand, pay to FNS a sum equal to the amount of coupons issued as a result of such negligence or fraud.

(b) *Negligence provisions.* (1) FNS may determine that a State agency has been negligent in the certification of applicant households if a State agency disregards Food Stamp Program requirements contained in the Food Stamp Act, the regulations issued pursuant to the Act, the FNS-approved State Plan of Operation or the FNS-approved State Operating Guidelines and a loss of Federal funds results or a State agency implements procedures which deviate from food stamp requirements contained in the Food Stamp Act, the food stamp regulations, the FNS-approved State Plan of Operation or the FNS-approved State Operating Guidelines without first obtaining FNS approval, and the implementation of the procedures results in a loss Federal funds.

(2) In computing amounts of losses of Federal funds due to negligence, FNS may use actual, documented amounts or amounts which have been determined through the use of statistically valid projections. When a statistically valid projection is used, the methodology will include a 95 percent, one-sided confidence level.

(3) FNS will base it determinations of negligence on information drawn from any of a number of sources. These information sources include, but are not limited to, State and Federal Performance Reporting reviews, State and Federal audits and investigations, State corrective action plans and any required reports.

(4) Failure by the State agency to remit payment upon demand, within the specified time period, may result in FNS recovering the lost funds through offsets to the State agency's Letter of Credit, in accordance with § 277.16(c).

(c) *Fraud provisions.* For purposes of this subsection, the term fraud shall mean the wrongful acquisition or issuance of food coupons by the State agency or its officers, employees or agents, including issuance agents, through false representation or concealment of material facts. State agencies shall be liable to FNS for the amount of loss of Federal funds as a result of fraud. Failure by the State agency to remit payment on demand by FNS, within the time period specified, may result in offsets to the Letter of Credit in accordance with § 277.16(c).

§ 276.4 Suspension/disallowance of administrative funds.

(a) *General provisions.* (1) FNS shall make determinations of the efficiency and effectiveness of State agencies' administration of the Food Stamp Program in accordance with the provisions of § 275.25. When making such determinations, FNS shall use all information that is available relating to State agencies' administration of the Program. This information includes, but is not limited to, information received from Performance Reporting System reviews, Federal reviews, audits, investigations, corrective action plans, financial management reviews, and the public.

(2) FNS may determine a State agency's administration of the Program to be inefficient or ineffective if the State agency fails to comply with the food stamp requirements established by the Food Stamp Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operation.

(3) If FNS determines that a State agency's administration of the Program is inefficient or ineffective, FNS may warn the State agency that a suspension and/or disallowance of administrative funds is being considered. After a State agency receives a warning, FNS may either suspend or disallow administrative funds or take both

actions in sequence, depending on the statement in the warning.

(b) *Suspension.* A suspension of funds is an action by FNS to temporarily withhold all or a portion of the Federal share of one or more of the cost categories of a State agency's budget for administration of the Food Stamp Program. Suspensions of funds shall remain in effect until FNS determines that a State agency has taken adequate corrective action to correct the problem causing the suspension, in which event the suspension will be rescinded, or until FNS decides to disallow the suspended funds. FNS shall suspend funds in accordance with § 277.16.

(c) *Disallowance.* (1) A disallowance of funds is an action by FNS in which reimbursement is denied for otherwise reimbursable administrative costs claimed by a State agency in one or more of the cost categories of a State agency's budget for Program administration.

(2) In accordance with § 277.16, FNS has the option of disallowing funds in another cost category, or all or a portion of the entire Letter of Credit if the disallowance is based on a finding that the State agency failed to take a required action. FNS may disallow funds after previously suspending such funds or may disallow funds immediately following the expiration of the formal warning under the conditions specified in paragraph (e) of this section.

(d) *Warning process.* Prior to taking action to suspend or disallow Federal funds, except those funds which are disallowed when a State agency fails to adhere to the cost principles of Part 277 and Appendix "A", FNS shall provide State agencies with written advance notification that such action is being considered. If a State agency does not respond to such an advance notification to the satisfaction of FNS, FNS shall provide the State agency with a formal warning of the possibility of suspension or disallowance action. However, when a State agency fails to meet the objectives in an FNS-approved corrective action plan, FNS may omit the advance notification and immediately issue a formal warning.

(1) *Advance notification.* Immediately upon becoming aware that a deficiency or deficiencies in a State agency's administration of the Program may warrant the suspension and/or disallowance of Federal funds, FNS shall advise the State agency in writing of the deficiency and shall provide a specific period of time for correction of such deficiency or deficiencies. The time period allowed the State agency for corrective action will vary according to the nature of the deficiency.

(2) *Formal warning.* FNS shall issue a formal warning to a State agency if the State fails to correct to the satisfaction of FNS the deficiencies noted in an advance notification within the time specified in the advance notification. FNS may also issue a formal warning to a State agency without first issuing an advance notification if a State agency fails to comply with an FNS-approved corrective action plan.

(i) Formal warnings shall include the following information:

(A) Specific descriptions of the deficiencies, explaining how the State agency is out of compliance with Program requirements;

(B) A Statement as to whether Federal funds will be suspended, disallowed or both, if appropriate;

(C) The amount of Federal funds that will be suspended and/or disallowed or an estimate of the amount if actual cost are unavailable; and

(D) A statement of FNS' willingness to assist State agencies is resolving the deficiencies.

(ii) A State agency shall have 30 days from receipt of a formal warning to submit evidence that it is in compliance or to submit a corrective action proposal, including the date the State agency will be in compliance.

(iii) When the deficiency cannot be corrected within 30 dyas of receipt of a formal warning but the State agency submits an acceptable plan for correcting the deficiency, FNS shall hold the formal warning in abeyance pending completion of the actions contained in the plan within the time specified in the plan.

(iv) FNS shall cancel a formal warning when the State agency submits evidence that shows, to the satisfaction of FNS, that the deficiency has been eliminated.

(e) *Suspension/disallowance of funds.* The Administrator of FNS shall notify State agencies in writing by certified mail or through personal service that administrative funds are being suspended or disallowed. Such action may occur when any of the following situations arise:

(1) A State agency fails to respond to the deficiencies cited in a formal warning within 30 days of receiving the warning;

(2) The response by a State agency to the deficiencies cited in a formal warning is unsatisfactory to FNS; or

(3) A State agency fails to meet the commitments it made in its corrective action proposal and a formal warning had been held in abeyance pending completion of that corrective action.

(f) *Appeals.* After FNS has taken action to disallow Federal funds the State agency may request an appeal in accordance with the procedures specified in § 276.7.

§ 276.5 Injunctive relief.

(a) *General.* If FNS determines that a State agency has failed to comply with the Food Stamp Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operations, the Secretary may seek injunctive relief against the State agency to require compliance. The Secretary may request injunctive relief concurrently with negligence billings and sanctions against State agencies affecting administrative funds.

(b) *Requesting injunctive relief.* Prior to seeking injunctive relief to require compliance, FNS shall notify the State agency of the determination of noncompliance and provide the State agency with a specific period of time to correct the deficiency. The Secretary shall have the discretion to determine the time periods State agencies will have to correct deficiencies. If the State agency does not correct the failure within the specified time period and the Department decides to seek injunctive relief, the Secretary shall refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance.

§ 276.6 Good cause.

(a) When a State agency has failed to comply with provisions of the Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operation, and, thus, is subject to the suspension/disallowance and injunctive relief provisions in §§ 276.4 and 276.5, FNS may determine that the State had good cause for the noncompliance. FNS shall evaluate good cause in these situations on a case-by-case basis, based on any one of the following criteria:

(1) Natural disasters or civil disorders that adversely affect Program operations;

(2) Strikes by State agency staff;

(3) Change in the Food Stamp Program or other Federal or State programs that result in a substantial adverse impact upon a State agency's management of the Program; and

(4) Any other circumstances in which FNS determines good cause to exist.

(b) If FNS determines that food cause existed for a State agency's failure to comply with required provisions and standards, FNS shall not suspend or disallow administrative funds nor seek injunctive relief to compel compliance with the provisions and standards.

§ 276.7 Administrative review process.

(a) *General.* (1) Whenever FNS asserts a claim against a State agency, the State agency may appeal the claim by requesting an administrative review. FNS claims that may be appealed are billings resulting from financial losses involved in the acceptance, storage, and issuance of coupons (§ 276.2), billings based on charges of negligence or fraud (§ 276.3), and disallowances of Federal funds for State agency failures to comply with the Food Stamp Act, regulations, or the FNS-approved State Plan of Operations (§ 276.4).

(2) A State agency aggrieved by a claim shall have the option of requesting a hearing to present its position in addition to a review of the record and any written submission presented by the State agency. Unless circumstances warrant differently, hearings of appeals of negligence claims and disallowances of Federal funds shall be before an Appeals Board and hearings of appeals of other claims shall be before a single hearing official. In any case, the people reviewing the claim shall be people who were not involved in the decision to file the claim.

(b) *Notice of claim.* FNS shall provide a notice by certified mail or personal service when asserting claims against State agencies.

(c) *Filing an appeal.* A State agency aggrieved by claims asserted against it may file written appeals with the Secretary, U.S. Department of Agriculture, c/o the Executive Secretary, State Food Stamp Appeals Board, Food and Nutrition Service, USDA, Washington, D.C. 20250, requesting an opportunity to present information in support of its position. The State agency shall attach a copy of the FNS claim to its appeal. Appeals must be filed with the Executive Secretary or postmarked within 10 days of the date of delivery of the notice of claim. If the State agency does not appeal within the prescribed 10-day period, the FNS decision on the claim shall be final. No extension shall be granted in the time allowed for filing an appeal.

(d) *Computation of time.* In computing any period of time prescribed or allowed under these procedures, the day of delivery of any notice of action, acknowledgment, or reply shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or Federal or State holiday. In that case, the period runs until the end of the next day which is not a Saturday, Sunday or Federal or State holiday.

(e) *Stay of administrative action.* With one exception, the filing of a timely appeal and request for administrative review shall automatically stay the action of FNS to collect the claim asserted against the State agency until a decision is reached on the acceptability of the appeal, and in the case of an acceptable appeal, until a final determination has been issued. The exceptions to this provision are those claims that are asserted against State agencies due to State agency failure to comply with an order to reduce, suspend or cancel benefits in accordance with § 271.7. In situations where a State agency does not reduce, suspend or cancel benefits as directed and FNS takes action to disallow administrative funds or bill the State agency, the disallowance and/or billing shall remain in effect during the review process. Should the Appeals Board uphold the State agency, all disallowed funds and/or funds collected as a result of the billing shall be restored to the State agency promptly.

(f) *Acknowledging an appeal.* Upon receipt of an appeal and request for administrative review, the Executive Secretary shall provide the State agency with a written acknowledgment of the appeal, including a statement of whether or not the appeal is timely and can be accepted. A copy of each acknowledgment shall be provided to FNS. The acknowledgment of a timely and acceptable appeal and request for administrative review shall also include a copy of Secretary's Memorandum No. 2003, Revised, "State Food Stamp Appeals Board," and the identity of the Appeals Board member(s) designated by the Secretary to review the claim.

(g) *Submitting additional information.* (1) State agencies shall have 30 days from their request for an appeal to submit five sets of the following information to the Executive Secretary of the Appeals Board:

(i) A clear, concise identification of the issue or issues in dispute;

(ii) The State agency's position with respect to the issue or issues in dispute;

(iii) The pertinent facts and reasons in support of the State agency's position with respect to the issue or issues in dispute;

(iv) All pertinent documents, correspondence and records which the State agency believes are relevant and helpful toward a more thorough understanding of the issue or issues in dispute;

(v) The relief sought by the State agency;

(vi) The identity of the person(s) presenting the State agency's position when a hearing is involved; and

(vii) A list of prospective State agency witnesses when a hearing is involved.

(2) At the request of the Executive Secretary, FNS shall promptly submit five complete sets of all documents, correspondence and records compiled by FNS in support of its claim.

(3) The Executive Secretary shall provide each person hearing an appeal and FNS with a complete set of the State agency information when it is received. The Executive Secretary shall also provide each person hearing an appeal and the State agency with a complete set of the information supplied by FNS when it is received.

(h) *Scheduling and conducting hearings.* When a hearing is afforded, the Appeals Board or hearing official has up to 60 days from receipt of the State agency's information, outlined in § 276.7(g), to schedule and conduct the hearing. The Executive Secretary shall advise the State agency of the time, date and location of the hearing at least 10 days in advance of the hearing. The State agency is solely responsible for ensuring the attendance of all State agency witnesses at the hearing.

(1) A hearing is an informal proceeding designed to permit the State agency an opportunity to present its position before a neutral third party. Because the final determination is subject to judicial review and trial *de novo*, the Appeals Board and hearing official shall not be bound by the rules of civil procedure applicable in the court or by the adjudicatory requirements of the Administrative Procedures Act.

(2) The Appeals Board Chairman, his designee or the hearing official is the presiding officer at the hearing. The presiding officer shall have full authority to ensure a fair and impartial proceeding, avoid delays, maintain order and decorum, receive evidence, examine witnesses, and otherwise regulate the course of the hearing. The State agency may represent itself at the hearing or be represented by counsel.

(3) The Appeals Board or hearing official shall receive into evidence the oral testimony of State agency witnesses and any documents which are relevant and material. Neither the Department nor FNS is required to present witnesses at the hearing. However, the Department and FNS shall make staff available to provide any information or clarification requested by the Appeals Board or hearing official. Under no circumstances shall the Department or FNS introduce new evidence at the hearing. Departmental and FNS staff, as well as State agency witnesses, shall be subject to examination by the Appeals Board or hearing official. Departmental and FNS staff shall not be subject to cross-examination by State agency

representative or counsel. Likewise, State agency witnesses shall not be subject to cross-examination by Departmental or FNS staff. Each side shall be permitted to make a closing statement to the Appeals Board or hearing official upon completion of the taking of evidence and testimony.

(4) FNS and the State agency shall have the opportunity to submit additional written information to the Appeals Board or hearing official within 10 days after the close of the hearing. No new factual material may be introduced except as it directly relates to evidence or testimony presented at the hearing. Five complete sets of such information must be filed with the Executive Secretary or postmarked prior of the expiration of the 10-day deadline for it to be considered.

(5) An official verbatim transcript of each hearing shall be kept on file in the Office of the Executive Secretary for public inspection. A copy shall be furnished to FNS and the State agency. Anyone wishing to purchase a copy may make arrangements to do so with the commercial reporting service involved.

(i) *Final determination.* (1) When a hearing is afforded, a final determination shall be made within 30 days of the hearing, and the final determination shall take effect 30 days after delivery of the notice of this final decision to the State agency. When a hearing is not held, a final determination shall be made within 30 days after receipt of the State agency's information. The final determination shall take effect 30 days after delivery of the notice of the final decision to the State agency.

(2) The Appeals Board or hearing official shall either uphold the claim, deny the claim, or adjust the claim downward in such amounts and for such reasons as the Appeals Board or hearing official shall determine and declare. The final determination is not subject to reconsideration.

(j) *Judicial review.* State agencies aggrieved by the final determination may obtain judicial review and trial *de novo* by filing a complaint against the United States within 30 days after the date of delivery of the final determination, requesting the court to set aside the final determination. The final determination shall remain in effect during the period the judicial review is pending unless the court temporarily stays such administrative action pending disposition of the complaint.

(k) *Extension of time.* (1) No extension of time shall be permitted a State agency in which to file an initial request for an administrative review. All other requests from the State agency or from FNS for the extension of any deadline contained in § 276.7 of the Regulations or imposed by the Appeals Board or hearing official shall be granted only for good cause shown and only when received by the Executive Secretary before the expiration of the particular deadline involved. All requests for an extension shall be in writing. Filing a request for an extension stops the running of the prescribed period of time. When a request for an extension is granted, the requester shall be notified in writing of the amount of additional time granted. When a request is denied for being untimely or for cause, the requester shall be notified and the prescribed period of time shall resume from the date of denial.

(2) The Appeals Board or hearing official may grant itself such additional time as it may reasonably require to complete any of its assigned responsibilities. If the Appeals Board or hearing official does find it necessary to grant itself an extension of time, the Executive Secretary shall notify all parties in writing.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10551 Food Stamp)

Dated: November 17, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36181 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-30-M

federal register

Friday
November 21, 1980

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

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 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.

Minimum Wages for Federal and Federally-Assisted Construction; General Wage Determination Decisions, Modifications, and Supersedeas Decisions

Arizona, California, Florida, Kansas, Maryland, Mississippi, Missouri, Montana, Oregon, Texas, Virginia and Wisconsin.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ80–5116	June 13, 1980.
California:	
CA80–5135	Oct. 3, 1980.
CA80–5110	Mar. 14, 1980.
Mississippi: MS80–1079	June 27, 1980.
Texas:	
TX80–4018	Mar. 14, 1980.
TX80–4032	June 6, 1980.
TX80–4033	May 16, 1980.
TX80–4034	June 6, 1980.
TX80–4037	May 16, 1980.
TX80–4077	Oct. 10, 1980.
TX80–4078	Do.
Virginia: VA78–3073	Oct. 13, 1978.
Wisconsin: WI80–2079	Sept. 5, 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.

Florida: FL79–1069 (FL80–1083)	Apr. 20, 1979.
Kansas:	
MO80–4030 (MO80–4091)	May 16, 1980.
MO80–4071 (MO80–4092)	Sept. 19, 1980.
Missouri:	
MO80–4030 (MO80–4091)	May 16, 1980.
MO80–4071 (MO80–4092)	Sept. 19, 1980.
Montana:	
MT80–5120 (MT80–5141)	June 27, 1980.
MT80–5121 (MT80–5142)	Do.
MT80–5122 (MT80–5143)	Do.
Oregon: OR80–5106 (OR–80–5145)	Feb. 8, 1980.

Cancellation of General Wage Determination Decision

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.

MD77–3036—Wicomico County, Maryland, dated March 4, 1977 in 42 FR 12613—Residential Construction

Signed at Washington, D.C. this 14th day of November 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

DECISION NO. AZ80-5116 - Mod. #3 (45 FR 40424 - June 13, 1980) STATEWIDE ARIZINA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Mason Tenders	$10.44	1.02	1.20		.06
Laborers:					
Northern, Central & Southern Areas - Tunnel & Shift Work:					
Fringe Benefits		1.02	1.20		.10

DECISION NO. CA80-5135 - Mod. # 1 (45 FR 65867 - October 3, 1980) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Area 3:					
Brush	$11.03	.80	1.00	1.10	.03
Brush or Roller (Swing stage); Paperhangers; Tapers (sheet rock)	11.28	.80	1.00	1.10	.03
Spray; Sandblasters	11.53	.80	1.00	1.10	.03
Steeplejack	12.53	.80	1.00	1.10	.03
SOFT FLOOR LAYERS:					
Area 3:	13.40	.90	.90	1.25	.09

DECISION #CA80-5110 - Mod. #6 (45 FR 16796 - March 14, 1980) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS:					
Group 1:					
Area 1	$12.08	1.65*	3.00	1.55	.34
Area 2	14.08	1.65*	3.00	1.55	.34
Group 2:					
Area 1	12.49	1.65*	3.00	1.55	.34
Area 2	14.49	1.65*	3.00	1.55	.34
Group 3:					
Area 1	12.74	1.65*	3.00	1.55	.34
Area 2	14.74	1.65*	3.00	1.55	.34
Group 4:					
Area 1	13.39	1.65*	3.00	1.55	.34
Area 2	15.39	1.65*	3.00	1.55	.34
Group 5:					
Area 1	13.64	1.65*	3.00	1.55	.34
Area 2	15.64	1.65*	3.00	1.55	.34
Group 6:					
Area 1	13.82	1.65*	3.00	1.55	.34
Area 2	15.82	1.65*	3.00	1.55	.34
Group 7:					
Area 1	14.00	1.65*	3.00	1.55	.34
Area 2	16.00	1.65*	3.00	1.55	.34
Group 8:					
Area 1	14.52	1.65*	3.00	1.55	.34
Area 2	16.52	1.65*	3.00	1.55	.34

DECISION NO. CA80-5110 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9:					
Area 1	$14.78	1.65*	3.00	1.55	.34
Area 2	16.78	1.65*	3.00	1.55	.34
Group 10:					
Area 1	15.04	1.65*	3.00	1.55	.34
Area 2	17.04	1.65*	3.00	1.55	.34
Group 10A:					
Area 1	15.18	1.65*	3.00	1.55	.34
Area 2	17.18	1.65*	3.00	1.55	.34
Group 11:					
Area 1	15.39	1.65*	3.00	1.55	.34
Area 2	17.39	1.65*	3.00	1.55	.34
Group 11A:					
Area 1	16.75	1.65*	3.00	1.55	.34
Area 2	18.75	1.65*	3.00	1.55	.34
Group 11B:					
Area 1	17.09	1.65*	3.00	1.55	.34
Area 2	19.09	1.65*	3.00	1.55	.34
Group 11C:					
Area 1	17.46	1.65*	3.00	1.55	.34
Area 2	19.46	1.65*	3.00	1.55	.34

*Includes $.44 per hour to Pensioned Health and Welfare Fund.

DECISION NO. MS80-1079, Mod. #4
(45 FR 43594, June 27, 1980)

Bolivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearle River, Issaquena, Sharkey, Sunflower, Washington, LeFlore, Lowndes, Yalobusha, and Warren counties, MS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Issaquena, Sharkey, Sunflower, and Washington counties					
Air conditioning/Heating mechanic	$6.63				
Bricklayer	8.00				
Carpenter	6.18				
Cement Masons	6.00				
Electricians	10.20				
Glaziers	5.41				
Ironworkers	7.21				
Laborers	3.84				
Painters: Brush	4.00				
Plasterers	6.00				
Plumbers & Pipefitters	8.39				
Power Equipment Operators:					
Bulldozer	5.00				
Crane	9.35				
Grader	5.50				
Roofers	6.00				
Sheet metal workers	6.31				
Soft floor layers	7.00				
Tile setters	7.00				
Truck drivers	3.84				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4018 - MOD. #4 (45 FR 16828 - March 14, 1980) Cameron, Hidalgo, Starr & Willacy Counties, Texas					
CHANGE: Plumbers & pipefitters	$ 9.80	.57	.30		.07
DECISION NO. TX80-4032 - MOD. #8 (45 FR 38254 - June 6,1980) Bexar County, Texas					
CHANGE: Sheet metal workers	13.67	3%+.45	1.20		.09
DECISION NO. TX80-4033 - MOD. #7 (45 FR 32544 - May 16,1980) Bowie County, Texas					
CHANGE: Plumbers & pipefitters:					
Within a 25 mile radius of Texarkana	13.85	.68	.70		.05
Outside a 25 mile radius of Texarkana	14.25	.68	.70		.05
DECISION NO. TX80-4034 - MOD. #5 (45 FR 38255 - June 6,1980) Brazos County, Texas					
CHANGE: Plumbers	15.12	.75	.80		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4037 - MOD. #5 (45 FR 32545 - May 16,1980) Lubbock County, Texas					
CHANGE: Painters:					
Brush	$ 9.55				
Spray; sandblasters	10.30				
DECISION NO. TX80-4077 - MOD. #1 (45 FR 67538 - October 10, 1980) Galveston & Harris Cos., Texas					
CHANGE: Painters:					
East Harris County:					
Group 1	14.58				
Group 2	14.935				
Group 3	14.675				
Group 4	14.83				
Group 5	14.975				
Group 6	15.24				
Plumbers	15.12	.75	.80		.10
DECISION NO. TX80-4078 - MOD. #2 (45 FR 67537 - October 10, 1980) Travis County, Texas					
CHANGE: Sheet metal workers	13.67	3%+.45	1.20		.09
Power equipment operators:					
Group 1	12.29		.55		.05
Group 2	11.22		.55		.05
Group 3	10.00		.55		.05
Group 4	9.89		.55		.05

DECISION NO. TX80-4078 (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; Blade grader - self-propelled; Crawler dozers or loaders; Derricks, power operated (all types); Dragline; Cableway; Backhoe; Crane, power operated (all types); Elevating grader, self-propelled; Hoist, motor driven, two drums or more; Mix mobile; High-lifts and loaders, over 1/3 cu. yd. capacity; Winch truck; Locomotive; Mixer, 14 cu. ft. or over; Paving mixer (all sizes); Scraper; Trenching machine (all sizes); Gradall; Foundation boring machine; Scoopmobile; Shovel, power operated; Pump crete machine; Rock crusher operated on job; Well points including installations; Riding compactor; Forklift over 1500 lb. capacity; Flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)

GROUP 2 - Blade grader, towed; Flex plane; Form grader; Mixer, less than 14 cu. ft.; Pulsometer; Conventional truck crane driver and oiler; Combination man; Hoist, single drum; Pneumatic roller; High-lifts and loaders, 1/3 cu. yd. or less; Forklift, 1500 lb. capacity or less

GROUP 3 - Fireman

GROUP 4 - Oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. VA78-3073-Mod. #8 (43 FR 47445-October 13, 1978) Radford Army Ammunition Plant, Virginia					
CHANGE: ASBESTOS WORKERS	$10.88	.80	.80		.01
DECISION NO. WI80-2079 - MOD. #3 (45 FR 59112 - September 5, 1980) Kenosha County, Wisconsin					
Change: Electricians	$ 14.50	.51	3%	.45	3/4%

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Leon

DECISION NUMBER: FL80-1083 DATE: Date of Publication

Supersedes Decision No. FL79-1069 dated April 20, 1979 in 44 FR 23735

DESCRIPTION OF WORK: Building Construction 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.
A/C HEATING MECHANICS	$6.49				
BRICKLAYERS/BLOCKMASONS	8.50				
CARPENTERS	8.05	.30	.25		.03
ELECTRICIANS	10.05	.55	3%		.5%
GLAZIERS	6.50				
LABORERS	4.25	.20			
PAINTERS	4.82				
PLUMBERS/PIPEFITTERS	7.00				
ROOFERS	5.25				
SHEET METAL WORKERS	8.30	.90	.60	.25	.10
SPRINKLER FITTERS	11.36	.75	1.05		.10
WELDERS - Rate for 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)(1)(ii)).					

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas

DECISION NO: MO80-4091

DATE: Date of Publication

Supersedes Decision No. MO80-4030 dated May 16, 1980 in 45 FR 32537

DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson and Wyandotte Counties, Kansas only.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS AND STONEMASONS	12.59	.95	.35	1.50	
CARPENTERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri Johnson and Wyandotte Counties, Kansas					
Carpenter, Millwrights and Piledrivermen	12.80	.60	.50		.07
Zone 2 - Henry County, Missouri					
Carpenters	12.05	.60	.50		.07
Millwrights and Pile-drivermen	12.80	.60	.50		.07
Zone 3 - Johnson County, Missouri					
Carpenters	12.425	.60	.50		.07
Millwrights & Pile-drivermen	12.80				
CEMENT MASONS (Building Construction)					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri Johnson and Wyandotte Counties, Kansas					
Cement Masons	12.675	.80	.70		
Zone 2 - Henry and Johnson Counties, Missouri	11.68				
CEMENT MASONS (Heavy and Highway Construction:					
Johnson & Wyandotte Counties, Kansas	13.17	.80	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone 1 - Western half of Clay and Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County, Missouri; Northwestern portion of Cass County, Missouri not including Pleasant Hill:					
Electricians	$14.68	.69	3%+.90	7%	.12
Zone 2 - Henry, Johnson and Lafayette Counties, Missouri and remainder of Clay, Jackson, Platte and Cass Counties, Missouri					
Electricians (contracts exceeding 2000 man hours	14.69	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.68	.69	3%+.90	7%	.12
Zone 3 - Ray County, Missouri;					
Electricians (contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.08	.69	3%+.90	7%	.12
Zone 4 - Johnson and Wyandotte Counties, Kansas	14.68	.69	3%+.90	7%	.12
ELEVATOR CONSTRUCTORS	14.135	1.195	.95	8%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	8%+a	

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Group 1	11.25	.45	.40		.10
Group 2	11.40	.45	.40		.10
Group 3	11.55	.45	.40		.10

CLASSIFICATION DEFINITIONS

LABORERS
Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; goergia buggies (self-propelled) fork lift; hoseman; insulation man
Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3 - Henry and Johnson Counties, Missouri					
Group 1	$8.725	.60	.60		.10
Group 2	8.825	.60	.60		.10
Group 3	9.05	.60	.60		.10

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; flagmen; signal men; all other general laborers
Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders on pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man
Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 4 - Johnson and Wyandotte Counties, Kansas					
Group 1	10.50	.60	.60	1.00	.10
Group 2	10.65	.60	.60	1.00	.10
Group 3	10.80	.60	.60	1.00	.10
Group 4	11.00	.60	.60	1.00	.10
Group 5	11.30	.60	.60	1.00	.10

CLASSIFICATION DEFINITIONS

LABORERS:

Group 1 - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers

Group 2 - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only)

Group 3 - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

Group 4 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

Group 5 - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$12.55	.60			
LINE CONSTRUCTION:					
Zone 1 - Cass, Clay, Jackson, Platte, and Ray Counties, Missouri; Wyandotte and remainder of Johnson Counties, Kansas					
Linemen	15.75	.45	3%+.25		½%
Lineman Operator	14.66	.45	3%+.25		½%
Groundman	10.38	.45	3%+.25		½%
Zone 2 - Western 3/4 of Johnson County, Kansas					
Linemen	13.07	.45	3%		½%
Cable Splicers	13.72	.45	3%		½%
Groundman	8.13	.45	3%		½%
Powderman	10.83	.45	3%		½%
Line Truck and equipment operators	10.83	.45	3%		½%
MARBLE AND TILE SETTERS	13.45	5%	5%		
Marble & tile setters' finishers	10.85				
PAINTERS:					
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman Air Force Base), Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Brush and tapers	12.19	.55	.70		.08
Spray	13.19	.55	.70		.08
Zone 2 - Johnson Co., Missouri (Whiteman Air Force Base only)					
Brush	11.25				
Spray	12.25				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri, Johnson and Wyandotte Counties, Kansas	$14.45				
Zone 2 - Henry and Johnson Counties, Missouri	9.00				
PIPEFITTERS	14.54	.72	1.60		.10
PLUMBERS	14.52	1.12	1.20		.12
POWER EQUIPMENT OPERATORS:					
Building Construction					
Group I	13.10	.85	1.00	1.05	.15
Group II	12.75	.85	1.00	1.05	.15
Group III:					
(a)	9.75	.85	1.00	1.05	.15
(b)	10.85	.85	1.00	1.05	.15
(c)	10.35	.85	1.00	1.05	.15
(d)	11.10	.85	1.00	1.05	.15
Group IV	13.35	.85	1.00	1.05	.15
Group V	13.00	.85	1.00	1.05	.15
Group VI	13.60	.85	1.00	1.05	.15
Group VII:					
(a)	12.85	.85	1.00	1.05	.15
(b)	12.60	.85	1.00	1.05	.15
(c)	10.60	.85	1.00	1.05	.15
Group VIII	14.10	.85	1.00	1.05	.15
Group IX	13.60	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group IV -
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft, of boom or over (incl. jib)

Group V
Hoists-each additional drum over 1 drum

Group VI
Crane or rigs, over 200 ft. of boom

Group VII
Ready Mixed Concrete Plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator

Group VIII
Master Mechanic

Group IX
Crane-tower or climbing

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
Group I	12.45	.85	1.00	1.05	.15
Group II	12.20	.85	1.00	1.05	.15
Group III	11.50	.85	1.00	1.05	.15
Group IV					
(a)	9.03	.85	1.00	1.05	.15
(b)	10.50	.85	1.00	1.05	.15
Group V	12.70	.85	1.00	1.05	.15
Group VI	12.45	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - (CONT'D)

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydrahammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1

Group IV

(a) Oilers

(b) Oiler driver, all types

Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over

Group VI - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$13.05	.75	.75		.14
SHEET METAL WORKERS	12.73	.75	1.20		.10
SOFT FLOOR LAYERS	10.53	.60	.85	1.00	1%
SOUND AND SIGNAL INSTALLER	9.69	.54	.27	.78	.02
SPRINKLER FITTERS	14.83	.85	1.20		.06
SPRINKLER FITTERS (Henry, Johnson and Lafayette Counties, Missouri)	14.20	.85	1.20		.08
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Group I	10.925	.75	1.00		
Group II	10.975	.75	1.00		
Group III	11.05	.75	1.00		
Group IV	11.175	.75	1.00		
Group V	11.075	.75	1.00		
Group VI	11.275	.75	1.00		
Group VII	11.125	.75	1.00		
Group VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - Warehousemen and stock man
Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)
Group V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers
Group VI - Mechanics
Group VII - Transit mix, 5 yds. and over
Group VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
Group I	10.91	1.00	1.25	.75	
Group II	11.11	1.00	1.25	.75	
Group III	11.42	1.00	1.25	.75	
Group IV	11.57	1.00	1.25	.75	
Group V	10.69	1.00	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment
Group III - A-frame, lowboy, and boom truck driver
Group IV - Mechanics and welders
Group V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION No. MO80-4092

DATE: Date of Publication

Supersedes Decision No. MO80-4071 dated September 19, 1980 in 45 FR 67667

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	12.59	.95	.35	1.50	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	12.30	.60	.50		.07
CEMENT MASONS	12.675	.80	.70		
ELECTRICIANS:					
Up to and including 3 stories:					
ZONE 1 - Johnson County, Kansas (that portion of Johnson County west of Aubry, Oxford & Shawnee Twps.)	9.70	.45	3%+.50		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Counties, Missouri; & Wyandotte County, Kansas; & remainder of Johnson County, Kansas	10.32	.69	3%+.70	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1 - Western half of Clay & Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County; Northwestern portion of Cass County, Missouri, not including Pleasant Hill	14.68	.69	3%+.90	7%	.12
ZONE 2 - Remainder of Cass Clay, Jackson & Platte Counties, Missouri:					
Electricians (contracts exceeding 2000 man hours)	14.68	.69	3%+.90	7%	.12
ELECTRICIANS (4 stories): (Cont'd)					
ZONE 3 - Electricians (contracts not exceeding 2000 man hours	$13.68	.69	3%+.90	7%	.12
ZONE 4 - Ray County, Missouri;					
Electricians (contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.08	.69	3%+.90	7%	.12
ELEVATOR CONSTRUCTORS	14.135	1.195	.95	8%+a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	8%+a	.035

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
LABORERS:					
Building Construction:					
ZONE 1 - Cass, Clay, Jackson & Platte Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
GROUP I	11.25	.45	.40		.10
GROUP II	11.40	.45	.40		.10
GROUP III	11.55	.45	.40		.10
ZONE 2 - Ray County, Missouri					
GROUP I	10.55	.45	.40		.10
GROUP II	10.70	.45	.40		.10
GROUP III	10.85	.45	.40		.10

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CLASSIFICATION DEFINITIONS

LABORERS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects).

GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgie buggies (self-propelled) fork lift; hosemen; insulation man.

GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; power men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Site Preparation & Grading ZONE 3 - Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
GROUP I	10.50	.60	.60	1.00	.10
GROUP II	10.65	.60	.60	1.00	.10
GROUP III	10.80	.60	.60	1.00	.10
GROUP IV	11.00	.60	.60	1.00	.10
GROUP V	11.30	.60	.60	1.00	.10

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CLASSIFICATION DEFINITIONS

LABORERS:

GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers.

GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checker on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only).

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.

GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar application; hand blade operator; manhole builders tenders and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels.

GROUP V - Manhole builder (brick or block); dynamite and powder man.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
MARBLE & TILE SETTERS	13.45	5%	5%		
MARBLE & TILE SETTERS FINISHERS	10.85				
PAINTERS:					
Brush & roller	11.69	.55	.70		.08
Spray	12.69	.55	.70		.08
PLASTERERS	14.45				
PIPEFITTERS	14.54	.72	1.60		.10
PLUMBERS	14.52	1.12	1.20		.12
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	13.10	.85	1.00	1.05	.15
GROUP II	12.75	.85	1.00	1.05	.15
GROUP III					
(a)	9.75	.85	1.00	1.05	.15
(b)	10.85	.85	1.00	1.05	.15
(c)	10.35	.85	1.00	1.05	.15
(d)	11.10	.85	1.00	1.05	.15
GROUP IV	13.35	.85	1.00	1.05	.15
GROUP V	13.00	.85	1.00	1.05	.15
GROUP VI	13.60	.85	1.00	1.05	.15
GROUP VII:					
(a)	12.85	.85	1.00	1.05	.15
(b)	12.60	.85	1.00	1.05	.15
(c)	10.60	.85	1.00	1.05	.15
GROUP VIII	14.10	.85	1.00	1.05	.15
GROUP IX	13.60	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -

(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group IV -

Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft, of boom or over (incl. jib)

Group V

Hoists-each additional drum over 1 drum

Group VI

Crane or rigs, over 200 ft. of boom

Group VII

Ready Mixed Concrete Plants:

(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator

Group VIII

Master Mechanic

Group IX

Crane-tower or climbing

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri (Zone 2)					
GROUP I	12.45	.85	1.00	1.05	.15
GROUP II	12.20	.85	1.00	1.05	.15
GROUP III	11.50	.85	1.00	1.05	.15
GROUP IV					
(a)	9.03	.85	1.00	1.05	.15
(b)	10.50	.85	1.00	1.05	.15
GROUP V	12.70	.85	1.00	1.05	.15
GROUP VI	12.45	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader-fork lift; hoistline engine-2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump-2; push cat operator; quad-track; scoop operator-all types; scoops in tandem; self-propelled rotary drill (leroy or equal-not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operater; slip-form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator-2.

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 2 Cont'd
GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator elevating grader; greaser; hoisting engine-1 drum; latourneau rooter; multiple compactor; pavement breaker, self propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p..
GROUP III - Boilers-1; chip spreader (front man); churn drill operator; compressor maintenance operator-1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator-1.
GROUP IV
(a) Oiler
(b) Oiler drivers, all types
GROUP V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over
GROUP VI - Hoists (each additional drum over 1 drum)

DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$13.05	.75	.75		.14
SHEET METAL WORKERS	12.73	.75	1.20		.10
SOFT FLOOR LAYERS	10.53	.60	.85	1.00	1%
SPRINKLER FITTERS	14.83	.85	1.20		.06
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Zone 1					
GROUP I	10.925	.75	1.00		
GROUP II	10.975	.75	1.00		
GROUP III	11.05	.75	1.00		
GROUP IV	11.175	.75	1.00		
GROUP V	11.075	.75	1.00		
GROUP VI	11.275	.75	1.00		
GROUP VII	11.125	.75	1.00		
GROUP VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1
GROUP I - Warehousemen and stock man.
GROUP II - Flat beds; pick-ups; dump trucks, under 10 yds..
GROUP III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers.
GROUP IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, A-frame winch and fork lifts; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over).
GROUP V - Distributor truck drivers and operators; oilers, greasers and mechanics' tenders.
GROUP VI - Mechanics.
GROUP VII - Transit mix, 5 yds. and over.
GROUP VIII - Transit mix, under 5 yds..

DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & Utilities Clay, Jackson, Platte & Ray Counties, Missouri					
Zone 2					
GROUP I	10.91	1.00	1.25	.75	
GROUP II	11.11	1.00	1.25	.75	
GROUP III	11.42	1.00	1.25	.75	
GROUP IV	11.57	1.00	1.25	.75	
GROUP V	10.69	1.00	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 2
GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle.
GROUP II - Material trucks, tandem; two teams; semi-trailers; winch trucks-fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment.
GROUP III - A-frame, lowboy, and boom truck driver.
GROUP IV - Mechanics and welders.
GROUP V - Mechanics tender, soilers and greasers.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)."

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT80-5141 DATE: Date of Publication
Supersedes Decision No. MT80-5120 dated June 27, 1980, in 45 FR 43598
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$13.87	$1.375	$1.10		.05
CARPENTERS:*					
Area 1:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
CEMENT MASONS:					
Cement Masons	10.88	.85	.40		
Grinder, Bush Hammer and Clipping Fan preparing finished surface; Epoxy	11.03	.85	.40		
ELECTRICIANS:					
Area 1	14.35	.70	3%+.50		1/2%
Area 2:					
Electricians	14.22	.70	3%+.50		1/2%
Cable Splicers	14.67	.70	3%+.50		1/2%
Area 3:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.50		1/2%
Cable Splicers	13.86	.70	3%+.50		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splicers	15.06	.70	3%+.50		1/2%
Area 4	13.20	.70	3%+.50		1/2%
Area 5:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splicers	15.06	.70	3%+.50		1/2%
Area 6	11.47		3%		1/2%
Area 7:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 8	12.70	.55	3%+.50		1/2%
Area 9	12.35	.50	3%+.50		1/2%
IRONWORKERS:					
Area 1	13.21	.90	1.45		.15
Area 2	15.36	.90	1.90		.10
Area 3	13.21	.90	1.45		.15

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Statewide excluding Beaverhead and Silver Bow Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Power Counties

Area 2: Big Horn, Carbon, Carter, Dawson, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties

Area 4: Broadwater, Lewis and Clark, and Meagher Counties

Area 5: Cascade County

Area 6: Custer and Garfield Counties

Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 8: Gallatin County

Area 9: Park and Sweet Grass Counties

IRONWORKERS:
Area 1: Beaverhead County, Broadwater County, Deer Lodge County, Gallatin County, Granite County, Jefferson County, Lewis and Clark County (southern half including Wolf Creek), Madison County, Park County, Powell County, Ravalli County, and Silver Bow County

Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 3: Remaining Counties (including northern half of Lewis and Clark County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush or Roller, prep work, Pot Tender	$11.08	.59	.50		.03
Wet Sandblasting, Brush or Roller application of cold tar, epoxies and acid resistant materials	13.08	.59	.50		.03
Spray application of cold tar, epoxies and acid resistant materials	16.08	.59	.50		.03
Paper or Vinyl Hanger	11.08	.59	.50		.03
Structural Steel: Brush or Roller	13.08	.59	.50		.03
Perfa-taping	11.58	.59	.50		.03
Structural Steel: Spraying	14.08	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03
Area 2:					
Brush; Roller; Floor Layers	10.66	.63	.50		.10
Brush, Roller on steel and roofs, Pot Tender, and Paperhanger	10.91	.63	.50		.10
Perfataper (hand tools)	10.76	.63	.50		.10
Spray (not steel)	11.64	.63	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	11.89	.63	.50		.10
Perfataper (machine tools)	11.16	.63	.50		.10
Area 3:					
Painter	10.02				
Paint Mitts	10.52				
Perfa-taping	10.27				

*See AREA Descriptions - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3: (Cont'd)					
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water Sandblasting and Steam cleaning; Stacks and steeples; Brushing of steel; Spraying and airless spraying; Work over 30 ft.	$12.80				
Area 4:					
Painter, Brush, Preparatory work, Pot Tender, Roller up to 9 inches	11.52	.69	.40		1%
Paperhanger, Brush on steel	12.02	.69	.40		1%
Water and Sandblasting; Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Spraying and airless spray	13.77	.69	.40		1%
Roller over 9" long	11.52	.69	.40		1%
Signwriter	11.88	.69	.40		1%
Spray and Roller (in shop)	11.88	.69	.40		1%
Spray and Roller (out shop)	12.75	.69	.40		1%
Hand Taper	11.92	.69	.40		1%
Machine Taper	13.17	.69	.40		1%
Area 5:	10.90				
Area 6	12.17	.69	.50		.04
Area 7:					
Highway parking and marking traffic surface applicator Operator; Material Mixer; Sandblaster; Striper	10.60	.56	.40		
The installation of plastic, metal or composition button, or lines used instead of paint.					

*See AREA Descriptions - Page 5

AREA DESCRIPTIONS

PAINTERS:

Area 1: Beaverhead, Broadwater, Gallatin, and Jefferson Counties; Lewis and Clark County (southern portion from a line running east and west through the southern limits of Craig); Madison, Meagher, and Park Counties; Powell County (northern area from a line running east and west through the southern City limits of Helmsville); Silver Bow County

Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, and Treasure Counties; Wheatland County (south of the City of Harlowton); Wibaux and Yellowstone Counties

Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg

Area 4: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels and Fergus Counties; Glacier County (including Glacier National Park); Garfield and Judith-Basin Counties; Lewis and Clark County (northern portion from a line running east and west through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and through the southern limits of Harlowtown)

Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)

Area 6: Flathead County; Granite County (northern area north of City limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

Area 7: Statewide

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:*					
Area 1	$15.78	.75	.70		.15
Area 2	15.10	1.05	1.10		.17
Area 3	15.35	.70	.85		.10
Area 4	14.20	1.00	.90		.10
SHEET METAL WORKERS:*					
Area 1	14.32	.73	.66		.24
Area 2	14.71	.73	.50		.24
Area 3	14.25	1.205	.805		.24
Area 4	14.04	.73	.75		.24
Area 5	14.09	.73	.73		.24

AREA DESCRIPTIONS

PLUMBERS:

Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties

Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweet Grass Counties

Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties

SHEET METAL WORKERS:

Area 1: Broadwater County, Jefferson County (including the north half of the City of Boulder), Lewis and Clark County, and Meagher County

Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, Treasure, and Yellowstone Counties

Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton, and Toole Counties

Area 5: Beaverhead County, Deer Lodge County, Granite County, Jefferson County (southern half), Madison County, Powell County, and Silver Bow Counties

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.10	.70	.60	.20	.05
Group 4	10.80	.70	.60	.20	.05

Group 1: Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmolene applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Stripper; General Laborer - Heavy Highway, Highway Bridge and Structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type of butane five, without blowers or fans - General Laborers scale); Landcape Laborer; Riprap Tender; Stake Jumper for Equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Mason Tender; Caisson Workers (free air); Cement Handlers; Choker Setter; Concrete Laborers (wet or dry); Bucketmen and Signalmen; Curb Machine; Dumpman (Grade Man); Form Setter; Hand Faller; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper Vibrating Roller, hand steered and other power tools; Nozzleman - air water, Gunite and Placo Machine; Concrete or Asphalt Saws; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power auger); Power Saw (bucking); Powderman Tender; Power driven wheelbarrow; Rigger; Riprapper; Spiker Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (5" and over); Drills, Air Track, self-propelled, Cat and Truck mounted air operated Drills; Drills, Air Track with dual masts; Drills, Air Tract, self-propelled Mustang type and similar; Equipment Handler; High Scaler; High Pressure Machine Nozzleman; Power Saw (falling); Sandblaster

Group 4: Core Drill Operator; Grade Setter; Powderman; Welder, cutting torch and air arc

POWER EQUIPMENT OPERATORS: STATEWIDE	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Bucket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07
Concrete Batch Plant Oiler, up to and including two Mixers	11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Finish Machine Paving	$12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator over 42" belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveyor, when required	11.65	.87	.75	.50	.07
Distributor Operator	12.19	.87	.75	.50	.07
DW 10, 15, or 20 tractor pulling Roller	11.91	.87	.75	.50	.07
Electric Overhead Cranes	12.37	.87	.75	.50	.07
Elevating Grader	12.19	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	11.65	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Farm Type tractor, over 50 HP engine	$11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drills, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar type	11.73	.87	.75	.50	.07
Hoist Operator, single drum	11.96	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mechanic Shop (Dec. April 1)	11.89	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07
Oiler-Driver, Rubber tired Cranes	11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Auger, large truck or tractor mounted and Punch	$12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Raygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on other blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Ross and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard to and including 3 yards	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to					

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	$12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21 and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfoot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu.yds. to and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachments over 5 cu. yds.	12.77	.87	.75	.50	.07
Shovel Oiler, 3 yds. and under	11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.50	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	$12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-type Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

TRUCK DRIVERS: STATEWIDE	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: Flathead, Lake, and Lincoln Counties:					
All work for power utilities, all highway lighting, street lighting and motor traffic controlling.					
Lineman	$13.92	.45	3%+.50		1/2%
Cable Splicers	15.49	.45	3%+.50		1/2%
Pole Sprayer	12.37	.45	3%+.50		1/2%
Line Equipment Operators Powderman, Jackhammer, Compressorman	11.87	.45	3%+.50		1/2%
Groundman "A"	10.29	.45	3%+.50		1/2%
Tree Trimmer	9.65	.45	3%+.50		1/2%
	12.83	.45	3%+.50		12/%
Head Groundman and Groundman "B" are not applicable					
Statewide, except Flathead, Lake, and Lincoln Counties:					
Lineman, Pole Sprayer	12.90	.45	3%+.50		1/4%
Cable Splicers	13.80	.45	3%+.50		1/4%
Line Equipment Operators' Powderman	11.40	.45	3%+.50		1/4%
Groundman	9.23	.45	3%+.50		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING: STATEWIDE					
Assistant Mate (Deckhand)	$12.02	.85	$ 1.00		.11
Fireman	12.12	.85	1.00		.11
Oiler	12.12	.85	1.00		.11
Assistant Engineer (electric, diesel, steam or booster Pump)	12.46	.85	1.00		.11
Mates and Boatman	12.46	.85	1.00		.11
Engineer Welder	12.51	.85	1.00		.11
Craneman	12.51	.85	1.00		.11
Assistant Engineer (electric, generator Operator for Primary Pump, power barge or dredge)	12.56	.85	1.00		.11
Leverman, Dipper:					
(a) 5 yards and under	13.27	.85	1.00		.11
(b) over 5 yards	13.82	.85	1.00		.11
Leverman, Hydraulic	12.88	.85	1.00		.11

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: Montana COUNTIES: Statewide
DECISION NUMBER: MT80-5142 DATE: Date of Publication
Supersedes Decision No. MT80-5121 dated June 27, 1980, in 45 FR 43608
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	$14.64	.72	$1.30		.04
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; MARBLE MASONS:*					
Area 1	14.20		.55		
Area 2	12.85	.90	.55		
Area 3	15.00		.75		
Area 4	12.55	.70	.60		
Area 5	14.15		.55		
Area 6	13.80	.85	.90		.035
Area 7	12.75	.75	.75		
Area 8	11.55	.60	.55		.05
Area 9	11.00				
CARPENTERS:*					
Area 1:					
Carpenters	11.25	.85	1.00		.04
Piledrivermen	11.50	.85	1.00		.04
Millwrights	12.25	.85	1.00		.04
Area 2:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.63	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Area 3:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Area 4:					
Carpenters	11.67	.85	1.00		.04
Piledrivermen; Millwrights	11.92	.85	1.00		.04
Area 5:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.43	.85	1.00		.04
Millwrights	12.27	.85	1.00		.04
Area 6:					
Carpenters	10.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
Millwrights	11.69	.85	1.00		.04
Area 7:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Beaverhead County; Jefferson County (except northern tip of County); Madison County, and Silver Bow Counties

Area 2: Gallatin and Park Counties

Area 3: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 4: Broadwater, Lewis & Clark, and Meagher Counties

Area 5: Deer Lodge, Powell, and Granite Counties

Area 6: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

Area 7: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties

Area 8: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 9: Fergus, Garfield, Golden Valley, Judith-Basin, Musselshell, Petroleum, and Wheatland Counties

CARPENTERS:
Area 1: Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton, and Toole Counties

Area 2: Blaine and Hill Counties

Area 3: Broadwater, Lewis & Clark, and Jefferson Counties

Area 4: Deer Lodge County; Granite County (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County); Powell County (area lying south of the N.E. corner of Granite County)

Area 5: Granite County (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County); Lake County (southern area, south of and including the Town of Ravalli); Mineral County (area southeast of southeast city limits of the Town of Superior); Missoula County; Powell County (area lying north of the N.E. corner of Granite County); Ravalli County; Sanders County (southeastern portion)

Area 6: Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties; and Fort Peck Project

Area 7: Flathead and Lincoln Counties; Lake County (northern area including Town of Ravalli from a point where Highway #10A and Highway #93 intersect); Mineral County (northern area including the Town of Superior); Sanders County (except S.E. corner portion)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 8:					
Carpenters	$11.28	.85	$1.00		.06
Floor Sander; Sawmen	11.43	.85	1.00		.06
Piledrivermen	11.43	.85	1.00		.06
Millwrights	12.28	.85	1.00		.06
Area 9:					
Carpenters	11.38	.85	1.00		.04
Piledrivermen; Millwrights	11.88	.85	1.00		.04
Area 10:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
CEMENT MASONS:*					
Area 1	12.00	1.00	.50	1.00	
Area 2	10.95	.85	.40		
Area 3	11.35				
Area 4	10.00				
ELECTRICIANS:*					
Area 1	14.35	.70	3%+.50		1/2%
Area 2:					
Electricians	14.22	.70	3%+.75		1/2%
Cable Splicers	14.67	.70	3%+.75		1/2%
Area 3	11.45		3%		1/2%
Area 4:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.75		1/2%
Cable Splicers	13.86	.70	3%+.75		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 5:					
Electricians	13.25	.65	3%+.50		1/2%
Area 6:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 7:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 8:					
Electricians	12.70	.55	3%+.50		1/2%
Area 9:					
Electricians	12.35	.50	3%+.75		1/2%

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

CARPENTERS: (Cont'd)
Area 8: Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland, and Yellowstone Counties

Area 9: Beaverhead and Silver Bow Counties

Area 10: Gallatin, Madison, Park, and Sweet Grass Counties

CEMENT MASONS:
Area 1: Beaverhead and Deer Lodge Counties; Granite County (southern half); Jefferson County (southern area including Town of Wickes); Madison County; Powell County (south portion including the Town of Deer Lodge); Silver Bow County

Area 2: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties

Area 3: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton, and Toole Counties

Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Richland, and Wibaux Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow, and Powell Counties

Area 2: Big Horn, Carbon, Carter, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Custer and Garfield Counties

Area 4: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill Judith-Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties

Area 5: Broadwater, Lewis & Clark, and Meagher Counties

Area 6: Cascade County

Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 8: Gallatin County

Area 9: Park and Sweet Grass Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$13.635	$1.195	.95	a	.035
IRONWORKERS:					
Area 1	13.21	.90	1.45		.15
Area 2	15.36	.90	1.90		.10
Area 3	13.21	.90	1.45		.15
PAINTERS:*					
Area 1:					
Brush, Roller; Floor Layers	10.66	.63	.50		.10
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	10.91	.63	.50		.10
Perfataper (hand tools)	10.76	.63	.50		.10
Spray (not steel)	11.64	.63	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	11.89	.63	.50		.10
Pertataper (machine tools)	11.16	.63	.50		.10
Area 2:					
Brush; Preparatory work; Pot Tender; Parking Lot Striping and related work; Roller up to 9"	11.52	.69	.40		1%
Paperhanger, Brush on Steel	12.02	.69	.40		1%
Water and Sandblasting; Application of cold tar products, epoxies and polyurethanes and acid resistant paints; Spraying and airless spray	13.77	.69	.40		1%
Roller over 9" long	11.52	.69	.40		1%
Signwritter	11.88	.69	.40		1%
Spray and Roller (in shop)	11.88	.69	.40		1%
Spray and Roller (out shop)	13.28	.69	.40		1%

See AREA Descriptions - Page 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3:					
Painters	$10.02				
Perfataper	10.27				
Paint Mitts	10.52				
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and Steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	12.80				
Area 4:					
Wet sandblasting, brush or roller; Application of cold tar epoxies, and acid resistant materials	13.08	.59	.50		.03
Brush or Roller; Prep work; Pot Tender	11.08	.59	.50		.03
Spray application of cold tar epoxies, and acid resistant materials	16.08	.59	.50		.03
Paper or Vinyl Hanger	11.08	.59	.50		.03
Structural steel; Brush or Roller	13.08	.59	.50		.03
Perfataping	11.58	.59	.50		.03
Structural Steel; Spraying	14.08	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03
Area 5	10.90				
Area 6	12.17	.69	.50		.04

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

IRONWORKERS:

Area 1: Beaverhead, Broadwater, Dear Lodge, Gallatin, Granite, and Jefferson Counties; Lewis & Clark County (southern half including Wolf Creek); Madison, Park, Powell, Ravalli, and Silver Bow Counties

Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 3: Remaining Counties (including northern half of Lewis & Clark County)

PAINTERS:

Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux, and Yellowstone Counties

Area 2: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith-Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg

Area 4: Broadwater and Gallatin Counties; Jefferson County (northern area from a line running east and west five(5) miles south of the southern city limits of Boulder); Lewis & Clark County (southern portion from a line running east and west through the southern limits of Craig); Park County; Powell County (southern area from a line running east and west through the southern City limits of Helmsville); Silver Bow County; Jefferson County (south part, from a line running due west from the south limits of Tosten); Broadwater County (south part, from a line running east and west through the north limits of Tosten); Madison County (west part, from a line running north and south through the west limits of Harrison in Beaverhead County)

Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)

Area 6: Flathead County; Granite County (northern area north limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$10.50	.75	.35		
Area 2	12.00	1.00	.50	1.00	
Area 3	10.95	.85	.40		
Area 4	10.00				
PLUMBERS:*					
Area 1	15.78	.75	.70		.15
Area 2	15.10	1.05	1.10		.17
Area 3	15.35	.70	.85		.10
Area 4	14.20	1.00	.90		.10
ROOFERS; Waterproofers:*					
Area 1	11.69		.25		
Area 2:					
Roofers	10.75	.85	.25		
Irritable bituminous Roofer, Waterproofer, Kettleman	12.25	.85	.25		
Area 3	9.75	.62	.60	.75	
Area 4:					
Roofers	12.52	.85	.50		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	14.52	.85	.50		.10
Area 5:					
Roofers	11.50	.85	.50		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	13.50	.85	.50		.10
Area 6	12.00	.55			
SHEET METAL WORKERS:*					
Area 1	14.32	.73	.66		.24
Area 2	14.71	.73	.50		.24
Area 3	14.25	1.205	.805		.24
Area 4	14.04	.73	.75		.24
Area 5	14.09	.73	.73		.24

*See AREA Descriptions - Page 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:*					
Area 1	$12.50				
SPRINKLER FITTERS	13.83	.85	1.20		
TERRAZZO WORKERS and TILE SETTERS:*					
Area 1	12.55	.70	.60		
Area 2	15.00		.75		
Area 3	12.70	.90	.55		
Area 4	12.75	.75	.75		
Area 5	11.70	.85	.90		
WELDERS:					
Receive rate for craft					
*See AREA Descriptions - following Page					

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 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 DESCRIPTIONS

PLASTERERS:
Area 1: Granite County; Lake County (southern area, including the City of Pablo); Mineral and Missoula Counties; Powell County (northern area including the City of Helmsville); Ravalli County; Sanders County (south portion, including the City of Paradise)

Area 2: Beaverhead and Deer Lodge Counties; Jefferson County (southern area, including the Town of Wickes); Madison County; Powell County (south of a line running east-west north of the Town of Deer Lodge); Silver County

Area 3: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, and Wheatland Counties

Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties

PLUMBERS:
Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties

Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, Madison, Park, Powell, Silver Bow, and Sweet Grass Counties

Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux, and Yellowstone Counties

ROOFERS; Waterproofers:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Priarie, Richland, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 2: Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith-Basin, Liberty, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties

Area 3: Deer Lodge, Powell, and Silver Bow Counties

Area 4: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 5: Lewis and Clark Counties

Area 6: Beaverhead, Broadwater, Gallatin, Jefferson, Madison, Meagher, Park, Sweet Grass, and Wheatland Counties

AREA DESCRIPTIONS (CONT'D)

SHEET METAL WORKERS:
Area 1: Broadwater County; Jefferson County (including north half of the City of Boulder); Lewis & Clark and Meagher Counties

Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders

Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wibaux, Wheatland, and Yellowstone Counties

Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton, and Toole Counties

Area 5: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern half); Madison, Powell, and Silver Bow Counties

SOFT FLOOR LAYERS:
Area 1: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith-Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Broadwater, Lewis & Clark, and Meagher Counties; Jefferson County (northern area north of Boulder Hill)

Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders

Area 4: Blaine, Daniels, Hill, Liberty, Phillips, roosevelt, Sheridan, Toole, and Valley Counties

Area 5: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Beaverhead, Deer Lodge, Madison, Powell, Silver Bow and that portion of Jefferson County within the territorial limits of District No. 2					
Group 1	$ 9.36	.70	.60	.20	.05
Group 2	9.56	.70	.60	.20	.05
Group 3	9.61	.70	.60	.20	.05
Group 4	9.86	.70	.60	.20	.05
Group 5	9.96	.70	.60	.20	.05
Broadwater, Lewis and Clark Meagher, north half of Jefferson County including the City of Boulder; that portion of Powell County lying east of a north-south line at west edge of the Town of Elliston					
Group 1	9.59	.70	.60	.20	.05
Group 2	9.75	.70	.60	.20	.05
Group 3	9.84	.70	.60	.20	.05
Group 4	10.09	.70	.60	.20	.05
Group 5	10.19	.70	.60	.20	.05
Broadwater (that portion lying south of an east-west line north of the City of Tosten), Gallatin, Madison (that portion lying east of the Gravely Mountain Range), Park, Sweet Grass and Wheatland Counties:					
Group 1	9.33	.70	.60	.20	.05
Group 2	9.49	.70	.60	.20	.05
Group 3	9.59	.70	.60	.20	.05
Group 4	9.83	.70	.60	.20	.05
Group 5	9.93	.70	.60	.20	.05

LABORERS

Beaverhead, Deer Lodge, Madison, Powell, Silver Bow and that portion of Jefferson County within the Territorial limits of District No. 2

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Grout, Concrete Pump and Nozzleman; Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Posthole Digger (power Auger); Power Saw (bucking); Powderman Tender; Rigger; Riprapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Laborer (wet or dry); Bucketmen and Signalmen; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; High Scaler; High pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)

Broadwater, Lewis and Clark, Meagher, north half of Jefferson County including the City of Boulder; that portion of Powell County lying east of a north-south line at west edge of the Town of Elliston

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborer (wet or dry); Bucketman and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, such as radiant type or butane fire, without blowers or fans, General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Housemen; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - Air, water, Gunite and Placo Machine; Pipelayer (all types); Laser Equipment Operator; Pipewrapper; Posthole Digger (power auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzlemen; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powdermen

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)

Broadwater (that portion lying south of an east-west line north of the City of Toston), Gallatin, Madison (that portion lying east of the Gravely Mountain Range), Park and Wheatland Counties

Group 1: Axeman; Caisson Workers (free air); Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (inoludes the installation and erection fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborers, building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Housemen; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power Auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen;

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel:					
Group 1	$ 9.35	.62	.53		.05
Group 2	9.50	.62	.53		.05
Group 3	9.65	.62	.53		.05
Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Cos.:					
Group 1	9.45	.70	.60	.20	.05
Group 2	9.67	.70	.60	.20	.05
Group 3	9.70	.70	.60	.20	.05
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties:					
Group 1	9.60	.70	.60	.20	.05
Group 2	9.82	.70	.60	.20	.05
Group 3	9.85	.70	.60	.20	.05
Granite, Lake (southern area), Mineral, Missoula, Ravalli and Sanders (southern area) Counties:					
Group 1	9.32	.62	.53		.05
Group 2	9.57	.62	.53		.05
Group 3	9.72	.62	.53		.05

LABORERS (Cont'd)
Flathead, Glacier National Park, Lincoln, and that portion of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

Group 1: General Laborers; Scaleman; Form Strippers; Car and Truck Loaders; Flagman

Group 2: Concrete Handlers, conveying and handling concrete; Nozzlemen (air or water); Sand Blast Tail Hose Man; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Small air tool Operators, including Blow Pipe and small power power tool Operators; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tender; Concrete Pumper Hoseman; Jackhammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipe Layers (non-metallic); Metal Culvert Pipe Layer; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging open ditches; Powderman; Drills, Air-trac, Wagon Drill, cat or truck mounted air operated Drills, Sand Blaster (wet or dry); Gunite Nozzleman; Barco Tamper

Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Equipment Handlers (truck, bobcats); Flagman, watchman; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Rodman; Scaleman; Scissorman; Stake Jumper; Tool Checker; Toolhouse Man

Group 2: Applicator, hand or nozzle (applying hot protective material or oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Collarman, Jointer, Mortarman, Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote Material Handler; Curb Machine; Dumpman, Graderman; Dumpman, Spotter; Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Signal Man; Shoring and Lagging (open ditch); Tar Pot Operator

Group 3: Tenders, Trowl Trades (scaffolding, staging, forklifts for Masons and Plasterers)

LABORERS (Cont'd)
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Equipment Handler (trucks, bobcats); Flagman, Watchman; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Rodman; Scaleman Scissorman; Stake Jumper; Tool Checker; Toolhouseman

Group 2: Applicator, hand or nozzle (applying hot protective material of oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Colarman, Jointer, Mortarman; Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote material Handler; Curb Machine; Dumpman, Grademan, Dumpman, Spotter; Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Signal Man; Shoring and Lagging (open ditch); Tar Pot Operator

Group 3: Tenders, Trowl Trades (scaffolding, staging, forklifts, for Masons and Plasterers)

Granite, Lake (southern area), Mineral, Missoula, Ravalli and Sanders (southern area) Counties

Group 1: General Building and Contruction Labor, Scaleman, Watchman, Flagman, Form Strippers, Car and Truck Loaders, Carpenters Tenders

Group 2: Nozzleman (air or water); Sand Blast; Tailhoseman, Powderman Tender, Power driven wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Signlaman; Rigger; Small Air Tool Operators, including Blow Pipes, Small power tool Operators, Chuck Tenders, Asphalt Rakers, Dumpman, Rip Rapping, Pipe Wrapper, Pot Tenders; Concrete Pumper Hoseman, Cutting Torch; Jackhammer, Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert; Pipelayers, Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging Open Ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Truck mounted air operated drills; Laser Equipment and Tool; Welders; Sand Blaster (wet or dry); Gunnitemen; Barco Tamper

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Pondera, Teton and Toole Counties:					
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.05	.70	.60	.20	.05
Group 4	10.30	.70	.60	.20	.05
Group 5	10.40	.70	.60	.20	.05
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties:					
Group 1	9.30	.62	.53		.05
Group 2	9.40	.62	.53		.05
Group 3	9.55	.62	.53		.05
Group 4	9.70	.62	.53		.05
Group 5	9.80	.62	.53		.05
Group 6	10.05	.62	.53		.05

LABORERS (Cont'd)
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Pondera, Teton and Toole Counties

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, such as radiant type or butane fire, without blowers or fans, General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman (air, water), Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties

Group 1: General and Building Laborers and Scale Man; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers includes installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power Driven Concrete Buggies or power driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Placo Operator, Jackhammer, Pavement Breaker, Vibrator (2½" and over) Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender; Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders handling bricks and blocks only

Group 5: Hod Carriers and Plaster Tenders (men carrying motor either by hod, pail or barrow); High Scaler; Wagon Driller, cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form setter (Slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Laser Tools and Equipment; Small Concrete Mixers; Concrete Saw

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Broadwater, Flathead, Lake, Lewis & Clark, Lincoln, Mineral, Missoula, Northern half of Powell, Ravalli and Sanders Counties:					
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Bucket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Batch Plant Oiler, up to and including two Mixers	$11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07
Concrete Finish Machine Paving	12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator, over 42' belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveyor, when required	11.65	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributor Operator	$12.19	.87	.75	.50	.07
DW 10, 15, or 20 tractor pulling Roller	11.91	.87	.75	.50	.07
Electric Overhead Cranes	12.37	.87	.75	.50	.07
Elevating Grader	12.19	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	11.65	.87	.75	.50	.07
Farm type tractor, over 50 HP engine	11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drill, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar types	11.73	.87	.75	.50	.07
Hoist Operator, single drum	11.96	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic Shop, (Dec. 1 to April 1)	11.89	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Oiler-Driver, Rubber tired Cranes	$11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07
Power Auger, large truck or tractor mounted and Punch	12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Raygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on othrer blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Rocs and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	12.41	.87	.75	.50	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21, and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfcot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachment over 5 cu. yds.	12.77	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Shovel Oiler, 3 yards and under	$11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.75	.50	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-tpye Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U.S. Highway #12) Counties:					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		

TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS:					
7 yards or less	$ 9.73	.82	.84		
Over 7 yards to and including 10 yards	9.98	.82	.84		
Over 10 yards to and including 15 yards	10.14	.82	.84		
Over 15 yards to and including 20 yards	10.28	.82	.84		
PICKUP DRIVER, hauling materials	9.73	.82	.84		
FLAT TRUCKS:					
Less than 2 ton factory rating	9.73	.82	.84		
2 - 5 tons	9.88	.82	.84		
5 - 8 tons	9.88	.82	.84		
SEMI and 4-WHEEL TRAILERS	9.98	.82	.84		
SERVICE TRUCKS and A-FRAME TRAILERS	9.73	.82	.84		
HOUSE MOVERS	9.82	.82	.84		
*See Jurisdictional Areas - following Page					

JURISDICTIONAL AREAS

All of Gallatin, Park, and Sweet Grass Counties; that portion of Madison County east of Montana Highway #287; that portion of Broadwater County south of U. S. Highway #12; in full detail starting with Montana #287 at the Idaho Line, then north following highway to where it meets U.S. Highway #10; then north to connect with the Broadwater County Line and continues until it meets a straight line drawn between Boulder, Montana and Townsend, Montana. Follow this line to Townsend and then follow U. S. Highway #12 east until you meet the Wheatland County Line, follow the Wheatland County Line and then follow this County Line south to the State Line, follow the State Line west to where it meets Montana Highway #287.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Flathead, Lake, and Lincoln Counties:					
Lineman	$13.92	.45	3%+.50		1/2%
Cable Splicer	15.49	.45	3%+.50		1/2%
Pole Sprayer	12.37	.45	3%+.50		1/2%
Line Equipment Operators	11.87	.45	3%+.50		1/2%
Powderman, Jackhammerman, Compressorman	10.29	.45	3%+.50		1/2%
Groundman "A	9.65	.45	3%+.50		1/2%
Tree Trimmer	12.83	.45	3%+.50		1/2%
Statewide, except Flathead, Lake, Lincoln Counties:					
Lineman, Pole Sprayer	12.90	.45	3%+.50		1/2%
Cable Splicer	13.80	.45	3%+.50		1/2%
Line Equipment Operator; Powderman	11.40	.45	3%+.50		1/2%
Groundman	9.23	.45	3%+.50		1/2%

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: Montana

COUNTIES: Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley

DECISION NUMBER: MT80-5143

DATE: Date of Publication

Supersedes Decision No. MT80-5122 dated June 27, 1980, in 45 FR 43624

DESCRIPTION OF WORK: Residential 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.
ASBESTOS WORKERS	$14.64	.72	$1.30		.02
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; MARBLE MASONS:*					
Area 1	13.80	.85	.90		
Area 2	14.15		.55		
Area 3	11.55	.60	.55		.05
Area 4	12.85	.90	.55		
Area 5	12.75	.75	.75		
Area 6	14.20		.55		
CARPENTERS:*					
Area 1:					
Carpenters	11.25	.80	.75		.04
Piledrivermen; Saw Filers; Sawmen	11.50	.80	.75		.04
Millwrights	12.25	.80	.75		.04
Area 2:					
Carpenters	11.67	.80	.75		.04
Piledrivermen; Millwrights	11.92	.80	.75		.04
Area 3:					
Carpenters	11.13	.80	.75		.04
Millwrights	12.27	.80	.75		.04
Piledrivermen	11.43	.80	.75		.04
Area 4	11.13	.80	.75		.04
Area 5	11.13	.80	.75		.04
Area 6:					
Carpenters	11.43			.75	
Millwrights; Piledrivermen	11.93			.75	
Area 7:					
Carpenters	11.38	.85	1.00		.04
Millwrights	11.88	.85	1.00		.04
Piledrivermen	11.88	.85	1.00		.04
Area 8:					
Carpenters	10.69	.85	1.00		.04
Millwrights	11.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
CEMENT MASONS:*					
Area 1	10.60				
Area 2	12.00	1.00	.50	1.00	
Area 3	10.50	.75	.35		

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Cascade and Glacier Counties
Area 2: Deer Lodge County
Area 3: Missoula County
Area 4: Gallatin County
Area 5: Hill and Valley Counties
Area 6: Silver Bow County

CARPENTERS:
Area 1: Cascade and Glacier Counties
Area 2: Deer Lodge County
Area 4: Missoula County
Area 5: Gallatin County
Area 6: Hill County
Area 7: Silver Bow County
Area 8: Valley County

CEMENT MASONS:
Area 1: Cascade, Hill, and Valley Counties
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Missoula County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Area 1:					
Electricians	$14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 2	14.35	.70	3%+.50		1/2%
Area 3:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.75		1/2%
Cable Splicers	13.86	.70	3%+.75		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 4:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 5:					
Electricians	12.70	.55	3%+.50		1%
ELEVATOR CONSTRUCTORS	12.38	1.045	.82	a	
IRONWORKERS:*					
Structural; Ornamental and Reinforcing:					
Area 1	15.36	.90	1.90		.10
Area 2	12.00	.75	1.35		.15
PAINTERS:*					
Area 1:					
Brush	11.52	.69	.40		1%
Paperhanger	12.02	.69	.40		1%
Brush on Steel	12.02	.69	.40		1%
Spraying; Sandblasting	13.77	.69	.40		1%
Area 2:					
Brush or Roller, Prep Work; Pot Tender; Paper or Vinyl Hanger	11.08	.52	.50		.03
Wet Sandblasting, Brush or Roller application of cold tar epoxies, and acid resistant materials	13.08	.52	.50		.03
Spray application of cold tar epoxies, and acid resistant materials	16.08	.59	.50		.03
Perfataping	11.58	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03

*See AREA Descriptions - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (Cont'd)					
Structural Steel:					
Brush or Roller	$13.08	.59	.50		.03
Structural Steel:					
Spraying	14.08	.59	.50		.03
Area 3	9.73	.69	.50		.04
Area 4	10.90				
Area 5	8.65				
PLASTERERS:					
Area 1	12.00	1.00	.50	1.00	
Area 2	10.50	.75	.35		
PLUMBERS:*					
Area 1	15.10	.75	1.10		.16
Area 2	15.78	.75	.70		.15
Area 3	15.35	.70	.85		.10
ROOFERS:					
Area 1	11.52	.85	.50		.10
Area 2	10.75	.85	.25		
Area 3	9.75	.62	.60	.75	
Area 4	12.00	.55			
SHEET METAL WORKERS:*					
Area 1	14.04	.73	.75		.24
Area 2	14.09	.73	.73		.24
Area 3	14.71	.73	.50		.24
Area 4	14.25	1.205	.805		.24
SOFT FLOOR LAYERS:					
Area 1	12.50				
SPRINKLER FITTERS	13.83	.85	1.20		.08
TERRAZZO and TILE SETTERS:*					
Area 1	12.70	.90	.55		
Area 2	11.70	.85	.90		
Area 3	12.75	.75	.75		
WELDERS: Receive rate for Craft					

*See AREA Descriptions - following Page

FOOTNOTE:
a. Employer contibutes 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. 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 DESCRIPTIONS

ELECTRICIANS:
Area 1: Cascade County
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Glacier, Hill, and Valley Counties
Area 4: Missoula County
Area 5: Gallatin County

IRONWORKERS:
Area 1: Glacier and Missoula Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Cascade, Glacier, and Valley Counties
Area 2: Gallatin and Silver Bow Counties
Area 3: Missoula County
Area 4: Hill County
Area 5: Deer Lodge County

PLASTERERS:
Area 1: Deer Lodge and Silver Bow Counties
Area 2: Missoula County

PLUMBERS:
Area 1: Cascade, Glacier, Hill, and Valley Counties
Area 2: Missoula County
Area 3: Remaining Counties

ROOFERS:
Area 1: Missoula County
Area 2: Cascade, Glacier, Hill, and Valley Counties
Area 3: Deer Lodge and Silver Bow Counties
Area 4: Gallatin County

SOFT FLOOR LAYERS:
Area 1: Cascade, Glacier, and Valley Counties

SHEET METAL WORKERS:
Area 1: Cascade, Glacier, and Hill Counties
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Missoula County
Area 4: Glallatin and Valley Counties

TERRAZZO and TILE SETTERS:
Area 1: Missoula County
Area 2: Cascade and Glacier Counties
Area 3: Hill and Valley Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Hill and Valley Counties:					
Group 1	$ 9.30	.62	.53		.05
Group 2	9.40	.62	.53		.05
Group 3	9.55	.62	.53		.05
Group 4	9.70	.62	.53		.05
Group 5	9.80	.62	.53		.05
Group 6	10.05	.62	.53		.05

Group 1: General and Building Laborers' and Scale Men; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking or concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small Power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers, installation and erection of fences, guard rails, median rails, reference posts, guide post and right-of-way markers

Group 2: Dumpman (Grade)

Group 3: Power Driven Concrete Buggies or Power Driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster; Concrete Nozzleman, Placo Operator, Jackhammerman, Pavement Breaker; Vibrator (2½ inches and over); Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender, Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang; Pot Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders (handling brick and block only)

Group 5: Hod Carriers and Plaster Tenders (men carrying mortor either by hod pail or barrow); High Scaler; Wagon Driller, cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (Slab Steel Forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Lazer Tools and Equipment; Small Concrete Mixers and Concrete Saws

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Missoula County:					
Group 1	$ 9.32	.62	.53		.05
Group 2	9.57	.62	.53		.05
Group 3	9.72	.62	.53		.05

Group 1: General Building and Construction Labor; Scaleman; Watchman; Flagman; Form Strippers; Car and Truck Loaders; Carpenters Tenders; Concrete Handler, conveying and handling concrete, other than concrete classifications listed below

Group 2: Nozzleman (air or water); Sand Blast Tail, Hose Man; Powderman Tender; Power driven Wheelbarrow; Rodder and Spreader; Form setters (paving); Bucketman; Signalman; Rigger; Small Air Tool Operators, including Blow Pipes, small power tool Operators; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping, Pipe Wrapper; Pot Tenders; Concrete Pumper Hoseman; Cutting Torch; Jack Hammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert Pipelayers; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Ttuck mounted Air operated Drills; Laser Equipment and Tools; Welders; Sandblaster (wet or dry); Gunnitemen; Barco Tamper

LABORERS: (Cont'd) Cascade and Glacier Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.05	.70	.60	.20	.05
Group 4	10.30	.70	.60	.20	.05
Group 5	10.40	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rials, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, General Laborers scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblast Tail Hoseman, Pot Tender; Sod Cutter, hand operated (general Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman (air, water); Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Rakerl Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder; Cutting Torch and Air Arc

LABORERS: (Cont'd) Gallatin County:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.33	.70	.60	.20	.05
Group 2	9.49	.70	.60	.20	.05
Group 3	9.59	.70	.60	.20	.05
Group 4	9.83	.70	.60	.20	.05
Group 5	9.93	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborers, building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power Auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen;

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Deer Lodge and Silver Bow Counties:					
Group 1	$ 9.36	.70	.60	.20	.05
Group 2	9.56	.70	.60	.20	.05
Group 3	9.61	.70	.60	.20	.05
Group 4	9.86	.70	.60	.20	.05
Group 5	9.96	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Grout, Concrete Pump and Nozzleman; Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Posthole Digger (power Auger); Power Saw (bucking); Powderman Tender; Rigger; Riprapper; Spike Driver, single or dual or hand; Switchman; Tat Pot Operator;

Group 3: Asphalt Raker; Concrete Laborers (wet or dry); Bucketmen and Signalmen; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; High Scaler; High pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Missoula County					
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Bucket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Batch Plant Oiler, up to and including two Mixers	$11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07
Concrete Finish Machine Paving	12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator, over 42' belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveyor, when required	11.65	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributor Operator	$12.19	.87	.75	.50	.07
DW 10, 15, or 20 tractor pulling Roller	11.91	.87	.75	.50	.07
Electric Overhead Cranes	12.37	.87	.75	.50	.07
Elevating Grader	12.19	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	11.65	.87	.75	.50	.07
Farm type tractor, over 50 HP engine	11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drill, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar types	11.73	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Driver, Rubber tired Cranes	$11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07
Power Auger, large truck or tractor mounted and Punch	12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Raygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on othrer blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Ross and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	12.41	.87	.75	.50	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21, and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfoot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachment over 5 cu. yds.	12.77	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Shovel Oiler, 3 yards and under	$11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.75	.50	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-tpye Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

TRUCK DRIVERS: Statewide, except Gallatin County:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		
TRUCKS with power equipment if under Teamster jurisdiction, such as: Winch, A-Frame Trucks, Swedish Crane, Hydralift, Groutcrete Truck and Combination Mulching, Seeding and Fertilizing Truck	10.34	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd) Gallatin County					
DUMP TRUCKS:					
7 yards or less	$ 9.73	.82	.84		
Over 7 yards to and including 10 yards	9.98	.82	.84		
Over 10 yards to and including 15 yards	10.14	.82	.84		
Over 15 yards to and including 20 yards	10.28	.82	.84		
PICKUP DRIVER, hauling materials	9.73	.82	.84		
FLAT TRUCKS:					
Less than 2 ton factory rating	9.73	.82	.84		
2 - 5 tons	9.88	.82	.84		
5 - 8 tons	9.88	.82	.84		
SEMI and 4-WHEEL TRAILERS	9.98	.82	.84		
SERVICE TRUCKS and A-FRAME TRAILERS	9.73	.82	.84		
HOUSE MOVERS	9.82	.82	.84		

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: Oregon COUNTIES: Statewide
DECISION NUMBER: OR80-5145 DATE: Date of Publication
Supersedes Decision No. OR80-5106 dated February 9, 1980, in 45 FR 8856
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$18.34	.82	$ 1.45		.18
BOILERMAKERS	13.51	1.275	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	15.66	1.05	1.40		.22
Area 2	15.35	.95	1.00		.12
CARPENTERS:					
Acoustical and Drywall Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	13.80	1.00	1.00	.65	.07
Floor Layers and Finishers; Stationary Power Saw Operators	13.95	1.00	1.00	.65	.07
Millwrights and Machine Erectors	14.05	1.00	1.00	.65	.07
Certified Welders, Instrument Men	14.20	1.00	1.00	.65	.07
Piledrivermen; Bridge, Dock and Wharf Builders	13.90	1.00	1.00	.65	.07
Boom Men	14.00	1.00	1.00	.65	.07
CEMENT MASONS:					
Cement Masons	13.10	1.05	1.17	1.00	.20
Composition Workers; Power Machinery Operator	13.36	1.05	1.17	1.00	.20
ELECTRICIANS:*					
Area 1:					
Electricians	13.90	.75	3%+1.00		1%
Cable Splicers	15.29	.75	3%+1.00		1%
Area 2:					
Electricians	16.65	.95	3%+1.30		.05
Lead Cable Splicers	17.52	.95	3%+1.30		.05
Area 3:					
Electricians	17.05	.90	3%+2.50		.04
Cable Splicers	18.75	.90	3%+2.50		.04
Area 4:					
Electricians	18.55	.90	3%+1.00		.07
Lead Cable Splicers	20.41	.90	3%+1.00		.07

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 5:					
Electricians	$17.75	.90	3%+1.80		.10
Cable Splicers	18.50	.90	3%+1.80		.10
Area 6:					
Electricians	16.13	.90	3%+2.00		.08
Cable Splicers	17.74	.90	3%+2.00		.08
ELEVATOR CONSTRUCTORS	16.07	1.195	.82	a	.035
GLAZIERS	11.81	.61	.65		.01
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	15.66	.93	1.90		.10
LATHERS:*					
Area 1	14.17	.75	1.55		.06
MARBLE SETTERS:*					
Area 1	15.66	1.05	1.40		.22
MASON TENDERS: (including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	12.95	.95	1.30		.10
PAINTERS:*					
Area 1:					
Painters and Tapers	11.37	.63	.50		.07
Area 2:					
Brush; Glazier; Sign Painter	5.50				
Spray; Sandblasting; Swing Stage; Taping and Paperhanging	5.57				
Area 3:					
Brush	12.42	.90	1.00	.50	.09
Spray	12.97	.90	1.00	.50	.09
Bridges, High work over 50' (brush)	13.32	.90	1.00	.50	.09
Bridges, High work over 50' (spray)	13.87	.90	1.00	.50	.09
Drywall Tapers	14.23	.80	.80		.06

*See AREA Descriptions - following page

AREA DESCRIPTIONS

BRICKLAYERS; Stoneamsons:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River; Malheur County (north half); Marion, Morrow, Multnomah, Polk, Sherman, and Tillamook Counties; Umatilla, Union, Wallowa, and Wasco Counties (north of the City of Maupin); Washington and Yamhill Counties
Area 2: Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (including the City of Maupin and south thereof); Wheeler County

ELECTRICIANS:
Area 1: Malheur County
Area 2: Baker, Gilliam, Grant, Morrow, Umatilla and Wheeler Counties
Area 3: Coos, Curry, and Lincoln Counties; Douglas and Lane Counties (those portions lying west of a line north and south from the NW corner of Coos County to the SE corner of Lincoln County)
Area 4: Benton, Crook, Deschutes, and Jefferson Counties; Lane County (eastern portion); Linn, Marion, and Polk Counties; Yamhill County (south half)
Area 5: Clackamas, Clatsop, Columbia, Hood River, Multnoman, Sherman, Tillamook, Wasco, and Washington Counties; Yamhill County (north half)
Area 6: Harney, Jackson, Josephine, Klamath, and Lake Counties; Douglas County (that portion lying east of a line running north and south from the NE corner of Coos County to the SE corner of Lincoln County)

LATHERS:
Area 1: Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, and Yamhill Counties

MARBLE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Multnomah, Morrow, Sherman, and Tillamook Counties; Union, Umatilla, and Wallowa Counties; Wasco County (north of the City of Maupin); Washington County; Yamhill County (north half)

PAINTERS:
Area 1: Malheur County:
Area 2: Umatilla County (Township of Pendleton ONLY)
Area 3: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$15.04	$1.00	$ 1.00		.01
Area 2	14.72	.75	1.00		.01
PLUMBERS:*					
Area 1	12.32	.79	1.10		.10
Area 2	14.64	.87	1.70	2.00	.12
Area 3	16.96	1.25	1.90	1.75	.12
Area 4	17.77	1.50	1.85		.13
Area 5	16.33	.81	1.65		.10
Area 6	19.07	1.21	1.90		.19
Area 7	14.06	.90	1.55		.10
Area 8	16.51	1.00	1.80	1.20	.05
ROOFERS:*					
Area 1	12.44	.45	.15		
Area 2:					
Roofers	13.55	.80	1.30		.10
Handling of irritating material (coal, tar or epoxy)	13.80	.80	1.30		.10
Handling of irritating material (coal, tar or epoxy) in confined area	14.05	.80	1.30		.10
Area 3:					
Roofers	13.25	.96	.50		
Spray and/or application of irritating materials in a confined area	12.60	.96	.50		
Area 4	12.45	.85	.30		
Area 5	13.06	.85	1.45		.10
SHEET METAL WORKERS:*					
Area 1	15.89	3%+1.03	1.81	1.00	.10
Area 2	14.00	.68	.72		.21
Area 3	16.74	3%+.73	1.50		.20
Area 4	15.705	.73	1.28		.10
SOFT FLOOR LAYERS:*					
Area 1	12.415	.60	1.05	b	.12
Area 2	8.26	.49	.10		.10
SPRINKLER FITTERS	15.34	.85	1.20		.08

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

PLASTERERS:
Area 1: Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson Counties; Klamath County (northern one-third); Lane County; Lincoln, Linn, Wasco, and Wheeler Counties (south half)
Area 2: Remaining Counties

PLUMBERS:
Area 1: Baker County; Harney (except NW portion); Malheur County
Area 2: Grant County (except SW corner); Morrow, Umatilla, Wallowa, and Union Counties
Area 3: Benton, Lincoln, and Linn Counties (north half); Marion and Polk Counties; Tillamook and Yamhill Counties (south half)
Area 4: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, and Washington Counties; Tillamook and Yamhill Counties (north half)
Area 5: Coos and Curry Counties; Douglas County (West Coast portion); Lane County (including the City of Florence)
Area 6: Benton County (south half); Crook and Deschutes Counties; Douglas County (except Coast portion); Grant County (SW corner); Harney County (NW portion); Jefferson County (south half); Klamath and Lake Counties (northern portion); Lane County (except the City of Florence); Lincoln and Linn Counties (south half)
Area 7: Remainder of Klamath and Lake Counties
Area 8: Jackson and Josephine Counties

ROOFERS:
Area 1: Benton, Lincoln, Linn, Marion, Polk, and Yamhill Counties
Area 2: Baker, Clackamas, Clatsop, Columbia, Grant, Gilliam, Hood River, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Wasco, Washington and Wheeler Counties
Area 3: Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, and Lane Counties
Area 4: Malheur County
Area 5: Wallowa County

SHEET METAL WORKERS:
Area 1: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, and Yamhill Counties
Area 2: Baker and Malheur Counties
Area 3: Morrow, Umatilla, Union, and Wallowa Counties
Area 4: Coos, Curry, Douglas, Klamath, Lake, Lane, Jackson, and Josephine Counties

SOFT FLOOR LAYERS:
Area 1: All Counties except Malheur County
Area 2: Malheur County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:*					
Area 1	$15.66	.90	$ 1.20		.28
Area 2	14.60	.95	.95		.10
*See AREA Descriptions - below					

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental

FOOTNOTES:

a. Employer credits 8% of basic hourly rate for employees with more than 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service to Vacation Plan. Six Paid Holidays: A through F

b. 4% of all gross wages to be placed to the credit of employees with less than one year's service. 6% of all gross wages to be placed to the credit of employees with more than one year of service.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AREA DESCRIPTIONS

TILE SETTERS:

Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties, Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)

Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (Maupin and south thereof); Wheeler County (south half)

LINE CONSTRUCTION
(All Counties Except Malheur)

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$16.15	$17.40	$18.15	$18.90	$20.15
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	14.59	15.84	16.59	17.34	18.59
Group 3: Tree Trimmer	13.17	14.42	15.17	15.92	17.17
Group 4: Line Equipment Man	12.57	13.82	14.57	15.32	16.57
Group 5: Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	10.99	12.24	12.99	13.74	14.99
Group 6: Groundman	10.32	11.57	12.32	13.07	14.30

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 6
Health and Welfare	$.45	$.45
Pension	3%+1.70	3%+1.10
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS:

*BASE ZONE 0 to 3 miles radius from the geographical center of the the Cities listed below:
ZONE 1 3 to 20 miles radius
ZONE 2 20 to 35 miles radius
ZONE 3 35 to 50 miles radius
ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Asotria	Medford
Tacoma	Ephrata	Baker	Portland
Walla Walla	Everett	Burns	Pendleton
Wenatchee	Kennewick	Bend	Salem
Yakima	Longview	Eugene	Roseburg
Wilbur	Olympia	Umatilla	Lakeview
Klamath Falls	Bellingham	Kellog	Sand Point
Corvallis	Coeur d'Alene	Lewiston	
Orofino	The Dallas		

*BASE ZONE Rate is paid when working out of employer's permanent Shop.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd) Malheur County:					
Cable Splicer	$11.83	.45	3%+.35		1/2%
Journeyman Lineman	10.72	.45	3%+.35		1/2%
Line Equipment Mechanic (right of way)	10.14	.45	3%+.35		1/2%
Line Equipment Mechanic (base shop)	9.47	.45	3%+.35		1/2%
Line Equipment Serviceman	9.47	.45	3%+.35		1/2%
Line Equipment Operator	9.63	.45	3%+.35		1/2%
Groundman	7.89	.45	3%+.35		1/2%
DREDGING:					
Leverman:					
Dipper	12.79	1.00	1.47	.50	.05
Hydraulic	13.44	1.00	1.47	.50	.05
Assistant Engineer (including Watch Engineer, Welder, Mechanic and Machinist); Mate	12.42	1.00	1.47	.50	.05
Tenderman (Boatman, attending Dredge Plant); Fireman	12.18	1.00	1.47	.50	.05
Assistant Mate (Deckhand); Oiler	11.92	1.00	1.47	.50	.05
TIMBER SALES ROADS:					
Operating Engineer	10.50	1.25	1.47	.50	.05
Operating Engineer Assistant (Oiler)	9.50	1.25	1.47	.50	.05
Teamster	10.54	.93	1.19		.08
Laborer	9.04	1.20	1.40		.10
Power Saw, Driller, Powderman	9.53	1.20	1.40		.10

LABORERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$10.83	$11.33	$11.73	$12.23	$13.13	$13.83
2	11.18	11.68	12.08	12.58	13.48	14.18
3	11.48	11.98	12.38	12.88	13.78	14.48
4	11.73	12.23	12.63	13.13	14.03	14.73

FRINGE BENEFITS:

Health and Welfare	$ 1.20
Pension	1.40
Vacation	1.00
Apprenticeship Tr.	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Tenders; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Right-of-way Marker); Fine Graders; Form Strippers (not swinging stages); General Laborers; Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and Loading Spotters and similar types); Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weightman, Crusher (aggregate when used)

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman, Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking Charred materials; Grade Checker; Granite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers; Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (wet); Stake-setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying)(applicable when employee assigned to move, set up, align Laser Beam); Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzlemen; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4 Laser Beam (tunnel) - applicable when employee assigned to move, set up, align Laser Beam; Tunnel Miners; Tunnel Powderman

POWER EQUIPMENT OPERATORS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$13.12	$13.62	$14.02	$14.52	$15.42	$16.12
2	13.28	13.78	14.18	14.68	15.58	16.28
3	13.40	13.90	14.30	14.80	15.70	16.40
4	13.58	14.08	14.48	14.98	15.88	16.58
5	13.60	14.10	14.50	15.00	15.90	16.60
6	13.69	14.19	14.59	15.09	15.99	16.69
7	13.76	14.26	14.66	15.16	16.06	16.76
8	13.87	14.37	14.77	15.27	16.17	16.87
9	13.94	14.44	14.84	15.34	16.24	16.94
10	14.01	14.51	14.91	15.41	16.31	17.01
11	14.03	14.53	14.93	15.43	16.33	17.03
12	14.10	14.60	15.00	15.50	16.40	17.10
13	14.19	14.69	15.09	15.59	16.49	17.19
14	14.37	14.87	15.27	15.77	16.67	17.37
15	14.55	15.05	15.45	15.95	16.85	17.55
16	14.76	15.26	15.66	16.16	17.06	17.76
17	14.92	15.42	15.82	16.32	17.22	17.92
18	15.12	15.62	16.02	16.52	17.42	18.12
19	15.28	15.78	16.18	16.68	17.58	18.28

FRINGE BENEFITS:

Health and Welfare	$1.25
Pension	1.47
Vacation	.50
Apprenticeship Training	.05

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications.

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - Driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator(on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Welder's Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Aspahlt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deer, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (Bit Grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Aspahlt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic - Welder, with dispatcher and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Pile-driver Operator; Floating Clamshell, etc., under 3 cu .yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by Tractor Operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead.

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Under-water equipment, remote or otherwise

TRUCK DRIVERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$12.53	$13.03	$13.43	$13.93	$14.83	$15.53
2	12.58	13.08	13.48	13.98	14.88	15.58
3	12.63	13.13	13.53	14.03	14.93	15.63
4	12.68	13.18	13.58	14.08	14.98	15.68
5	12.73	13.23	13.63	14.13	15.03	15.73
6	12.83	13.33	13.73	14.23	15.13	15.83
7	12.93	13.43	13.83	14.33	15.23	15.93
8	13.03	13.53	13.93	14.43	15.33	16.03
9	13.13	13.63	14.03	14.53	15.43	16.13
10	13.30	13.80	14.20	14.70	15.60	16.30
11	13.40	13.90	14.30	14.80	15.70	16.40
12	13.50	14.00	14.40	14.90	15.80	16.50
13	13.60	14.10	14.50	15.00	15.90	16.60
14	13.70	14.20	14.60	15.10	16.00	16.70

FRINGE BENEFITS:

Health and Welfare	$0.93
Pension	1.19
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) -5,000 to 7,000 gallons

TRUCK DRIVERS (Cont'd)

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: Over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling Sacked cement - add $0.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

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
for
LABORERS
POWER EQUIPMENT OPERATORS
and
TRUCK DRIVERS

CITIES:

Albany	Hood River	Newport
Astoria	Klamath Falls	Ontario
Baker	La Grande	Pendleton
Bend	Lakeview	Port Orford
Brookings	Longview	Reedsport
Burns	Madras	Roseburg
Coos Bay	Medford	The Dalles
Corvallis	McMinnville	Tillamook
Goldendale	Vancouver	
Grants Pass		

ZONE 1 - All jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - More than 10 miles but less than 25 miles form the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

Portland, Eugene and Salem ONLY

ZONE 1 - All jobs or projects located within 20 miles of the respective City Hall

ZONE 2 - More than 20 miles but less than 25 miles from the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

[FR Doc. 80-36107 Filed 11-20-80; 8:45 am]
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federal register

Friday
November 21, 1980

Part IV

Environmental Protection Agency

Proposed Environmental Standards; and Proposed Good Laboratory Practice Standards for Physical, Chemicals, Persistence, and Ecological Effects Testing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 772

[OPTS 46007; TSH FRL 1594-3]

Environmental Test Standards; Proposed Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes a portion of the Agency's standards for development of certain data on physical and chemical characteristics of substances for which EPA will require testing under section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603). These standards will be incorporated into future TSCA section 4 rules that will designate particular chemicals for testing. When EPA requires testing on specific chemicals, the person performing the test will be required to conform to the methods and conditions in these standards with such modifications as may be appropriate for the specific chemical. The Agency will use the data generated by such testing to aid in assessing whether chemicals present unreasonable risks. EPA is proposing here preliminary standards for testing density/relative density, melting temperature, vapor pressure, octanol/water partition coefficient, and soil thin layer chromatography.

DATES: Written comments should be submitted on or before January 21, 1981. Oral comments will be received on February 10, 1981. See Supplementary Information for public meeting information.

ADDRESSES: Written views and comments should bear the EPA document control number [OPTS-46007] and should be submitted to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances (OPTS), Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460, (202-755-8050).

See SUPPLEMENTARY INFORMATION, PUBLIC MEETINGS; for location of public meeting.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-427, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Support documents which provide the scientific and technical bases for the test standards proposed in this package are available upon request from the Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-427, 401 M Street, SW., Washington, D.C. 20460. The support documents, when read together with this preamble, will provide an explanation of the bases for these standards.

EPA proposed under section 4 of the Toxic Substances Control Act (TSCA)(Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603) standards for the development of data on chronic health effects published in the **Federal Register** of May 9, 1979 (44 FR 27334 et seq.). With the proposal, EPA began the process of codifying health effects standards for incorporation into future TSCA section 4 test rules. EPA proposed standards for testing chemicals for acute and subchronic toxicity, mutagenic effects, teratogenic effects, reproductive effects, and standards for metabolism studies published in the **Federal Register** on July 26, 1979 (44 FR 44054). Today EPA is continuing the process of codifying test standards by proposing the first environmental testing standards.

In the future, the Agency will propose chemicals to be tested in accordance with section 4 test standards. In the present rulemaking to codify test standards, the issues center on the suitability of the proposed generic standards for testing chemicals under these future section 4 test rules. In rulemakings to require the testing of specific chemicals or categories of chemicals, the issues will center on the need to test the identified chemicals, and the appropriateness of any needed modifications to those generic standards when applied to particular chemicals.

In the future EPA will be proposing additional test standards for neurobehavioral toxicity, other physical, chemical, and environmental persistence characteristics, and various ecological effects. In addition, EPA has proposed a set of Good Laboratory Practices (GLP) for use with test standards on human health effects (44 FR 27334), and in a separate proposal in this issue of the **Federal Register** EPA is proposing a GLP for use with test standards on ecological effects and on chemical, physical, and environmental persistence characteristics.

The Agency's goal is to promulgate test standards for every important environmental effect and for the physical, chemical, and persistence characteristics which can be used in judging the environmental fate of a chemical. The Agency does not intend to require the use of all or even necessarily a significant fraction of the available test standards in a given test rule that requires testing of a specific chemical. Testing requirements will only be applied to a specific chemical if the Agency finds such testing is necessary in accordance with section 4 of the Act.

When EPA determines that chemical substances satisfy the testing prerequisites in section 4(a), these chemical substances will be joined in section 4(a) test rules with standards finalized as a result of today's proposal, or with revisions or modifications of these standards, as necessary and appropriate.

EPA's legal authority to require testing of chemical substances in accordance with test standards and the use of test data for assessing the risk potential of toxic substances are set forth in the document proposing Chronic Health Effects Standards published in the **Federal Register** of May 9, 1979 (44 FR 27335).

II. Major Issues

Several informal comments received by EPA in response to earlier drafts of these standards and some written and oral comments on published proposed standards for testing for health effects have raised two major questions:

(1) Why is EPA issuing "generic" test standards rather than preparing and proposing test standards as part of each rule?

(2) Why are TSCA proposed test standards generally more detailed and specific than standards or guidelines used by other agencies or used by EPA in other programs?

The following discussion explains EPA's reason for the use of generic standards and for preparing test standards with a relatively high degree of specificity.

"Generic" Standards

As explained in other places in this proposal, EPA is developing test standards for application in section 4 testing rules. Steps in the process are:

1. EPA prepares proposed test standards and publishes them for public comment.

2. EPA revises the standards, considering comments received, and issues the standards as rules published in the Code of Federal Regulations.

3. When the Agency proposes rules that require testing of individual chemicals, the proposed rule will incorporate test standards as appropriate. In the proposed rule, the

Agency may modify the standards as needed because of characteristics peculiar to the chemicals addressed by the rule. During the public comment period on each test rule, the issues for comment will focus on the appropriateness of testing the chemical and the need to modify the standards based on specific chemical characteristics.

4. In chemical-specific test rules, the Agency normally will not modify the basic standards except as applied to individual chemicals. At regular intervals, but at least once each year as required by TSCA, EPA reviews all test standards and proposes modifications as necessary.

The alternative would be for EPA to create new standards for testing in each test rule. Thereby, as each proposed testing rule is issued, all details of the testing standards for each prescribed test would be included with the proposed rule. Each aspect of each test standard also would be open for detailed comment as part of the commenting on the proposed rule.

EPA's reasons for developing standards separately are:

(1) Section 4 of TSCA requires that EPA assure that testing of chemicals produces data that are "reliable and adequate". This means, for example, that the methods prescribed must be reviewed and validated. Since testing conditions may be chemical specific, it simply is neither practical nor efficient for EPA to validate testing methods for each rule; it is necessary to have a basic set of validated and accepted generic standards which have received reviews and acceptance that can be applied as the rules demand, with modifications as necessary for particular chemicals.

(2) EPA must have an orderly process for annual review of standards. Section 4(b)(2)(B) of TSCA mandates that standards for testing be reviewed at least every 12 months. EPA plans to conduct these reviews through two processes:

(a) A review of existing standards by its own scientists and invited scientists from outside the Agency.

(b) Solicitation of comments from all interested parties through public announcement of an open period of consideration of review.

In order for such an orderly review process to work, it is necessary for EPA to have specific objects of review in the form of uniform standards for testing that are used in the many different rules. Again, it is not practical and would be extremely difficult to review a set of standards if the standards were scattered among a host of differing rules, with differences in the standards from rule to rule.

(3) EPA is obligated to develop testing standards that are, to the extent practicable, consistent with standards of other agencies, with standards of other EPA programs, and with accepted international standards for testing of chemicals. In most cases these are generic standards and do not apply to specific chemicals or chemical groups. Standards for TSCA testing will of course differ in many ways in order to meet the specific requirements of the Agency for assessing risk of chemicals under TSCA. So-called "generic" standards allow EPA a practical basis for examining the standards of other organizations and programs, judging their suitability for application to TSCA testing, making modifications as necessary, securing comment, conducting regular reviews of the changes in the state-of-the-art and the standards developed by others, and incorporating the changes in TSCA standards.

(4) EPA wants to encourage manufacturers to test chemicals on their own initiative. EPA feels that a set of acceptable standards for conducting tests provides manufacturers with a good set of guidance as to the standards of data that they should seek to achieve in their own testing programs.

Specificity

Section 3(12)(B) of TSCA states that "standards for the development of test data" means, to the extent necessary, a prescription to assure that data respecting such effects and characteristics are reliable and adequate:

(i) The manner in which such data are to be developed.

(ii) The specification of any test protocol or methodology to be employed in the development of such data.

(iii) Such other requirements as are necessary to provide such assurance.

There are many aspects to EPA's requirements for reliable and adequate data:

(1) EPA must be able to judge the accuracy and precision of the data. By use of a relatively small number of methods that have been validated and standardized, EPA is able to compile information on the accuracy and precision of prescribed tests. If EPA were to allow great freedom in the selection or alteration of testing methods, it would be necessary to require each tester to submit data on validation, precision, and accuracy with each set of data.

(2) EPA must be able to prescribe that certain data fall within specified levels of accuracy. Examples are data that EPA uses in certain models predicting environmental fate, exposure, or toxicity to certain parts of the environment. The most practical way to prescribe accuracy is to specify standardized techniques which have been validated as being capable of meeting the accuracy requirements which the Agency needs.

(3) Certain types of testing data are used in risk analyses which require data that are highly comparable to use in interpolation, extrapolation, or evaluation of surrogates. EPA, for example, uses toxicity or reproductive tests on a few species of aquatic plants and animals to judge whether or not chemicals have effects on the overall aquatic environment. The test species have been carefully selected and the testing schemes have been made highly specific in order for EPA to make broad analyses of environmental impact based on the results of a few tests. Without the strict standards on the few types of tests which EPA uses as surrogates, it would be necessary for the Agency to require a much larger group of tests.

(4) It is necessary to prepare testing standards for dealing with the least experienced laboratories. Although many laboratories have highly experienced scientific staffs and facilities and normally conduct chemical tests in professional, reliable manners, there are others who do not. In the cases of the best laboratories it would probably be possible to expect adequate and reliable data based only on general guidance for testing methodology. But with the less experienced laboratories, the staff are not able to make adequate judgments as to which specific testing standard to apply and where the standards may or may not be altered without adversely affecting the results. EPA, therefore, feels that it must write standards that are specific so as to provide adequate guidance to the least experienced testing laboratories as to which specific techniques must be used and which portions of the testing protocols may or may not be modified.

In order to meet the four requirements stated above, and others, and to assure comparability of data among chemicals and laboratories it is necessary to limit many of the discretionary variations which are often permitted in testing protocols. For these reasons, the standards for TSCA section 4 testing specify detailed instructions to assure that reliable data are developed to satisfy the needs of EPA for good information to conduct chemical risk assessments.

In spite of the specificity, these standards are general in several

respects, and where necessary, more specific requirements or modifications related to the chemical substance(s) to be tested may be proposed in specific chemical test rules.

See Good Laboratory Practice Standards for Health Effects (44 FR 27362) for a discussion of the problem of unreliable test data.

III. Basis and Purpose of Physical, Chemical, and Environmental Persistence Test Standards

General

Testing of physical, chemical, and environmental persistence characteristics will be required as part of a test rule in those cases were the Agency determines that data from such testing are necessary to evaluate the environmental fate or other pertinent characteristics of a chemical.

Assessment of the fate of a chemical substance after its release into the environment often is essential for the evaluation of exposure and risks posed by that chemical. Fate, in this sense, is defined as the transport and transformation of a chemical by natural means after it is released to the environment from a point source, e.g., a manufacturing plant or waste treatment plant, a disposal site such as a landfill, or a dispersive use. Determination of the fate of a chemical substance in the environment may involve investigation of the nature of dispersal and ultimate distribution, and of the types and rates of reactions in which the chemical participates during transport. Fate determinations help to identify the chemical form(s), the environmental compartments or concentration ranges to which the environment will be exposed, and the organisms exposed to the chemical.

Chemical Transport

Chemicals discharged into the environment are generally released into one or more of four media: air, water, soil, and sediment. Discharged materials often do not reside long in one medium but are transported to other media by processes that depend upon the characteristics of the region into which they are released, e.g, meterological conditions, the flow of surface waters, the location and flow of groundwaters, tidal action, topographic characteristics, and the characteristics of soils, sediments, and suspended particulates, and on certain physical and chemical characteristics of the substance itself. An analysis of the transport of discharged chemicals is further complicated because receiving and transporting media can be divided into a variety of subtypes. For example, water can be fresh, saline, estuarine, undergound, or free-flowing in streams, or ponded in lakes. Similarly, soils may vary in structure, composition, and chemical properties.

Several methods are available for helping to determine the tendency of a chemical to become distributed into one or more environmental media following its release, i.e., its partitioning potential. One of these methods is direct field measurement or monitoring. A very small portion of all chemicals, however, has been the object of field study or monitoring programs and, therefore, existing monitoring data usually are not available for adequately determining partitioning potential. In addition, monitoring is expensive and generally requires a considerable amount of time to accomplish. Most determinations of chemical transport must therefore depend, at least in part, on analyses of several important chemical and physical characteristics, such as: (1) density; (2) melting and boiling temperatures; (3) octanol/water partition coefficients; (4) solubility in water; (5) vapor pressure; (6) adsorption/desorption on particulate surfaces; (7) particle size distribution for insoluble solids; (8) dissociation constants in water for substances which dissociate in water; and (9) ultraviolet and visible absorption spectra.

The test standards proposed in this **Federal Register** notice are detailed descriptions of methods for measuring several of the characteristics mentioned above. They have been evaluated by EPA and have been found suitable for developing good and reliable data as required under section of TSCA. Some of the methods have been selected from those adopted by standardizing organizations; but others have been developed by or for EPA, or adopted from other sources as the needs of EPA dictated.

Chemical Persistence

Chemical persistence can be defined as the ability of a chemical to retain its molecular integrity, and its physical, chemical, and functional characteristics in the environment through which it is transported and distributed following its environmental release. The inverse of chemical persistence is chemical degradability or transformation, which can be brought about through physical, biological, chemical, and photochemical mechanisms.

The susceptibility or resistance of a chemical to degradation will determine, to a large extent, its residence time in a particular medium, environmental compartment, or ecosystem. Persistence is a major factor in determining the steady-state concentration that a chemical may attain in a particular medium or in a compartment thereof, i.e., its residence time. Thus, if the rate of degradation in a medium or environmental compartment exceeds its rate of entry, there is less likelihood of its achieving significant environmental concentration levels in that medium or compartment. However, there could still be cause for concern if the rate of uptake by biota in those areas exceeded the rate of chemical degradation, or if dispersion or transport were poor so that the chemical tended to concentrate in small "hot spots," areas of relatively high concentrations of a chemical.

Data on chemical persistence and on chemical transport can assist in making pretesting decisions such as the selection of species to test for chemical effects. Thus, if data on persistence and transport showed that it is likely that a chemical will concentrate or persist in a particular environment, it might be logical to test for effects on a wide variety of species residing in that environment.

As stated above, degradation of chemical substances can take place by physical, biological, chemical, and photochemical mechanisms. The test standards found in Subpart L describe what EPA believes are some of the best "screening" tests for assessing potential degradability by each mechanism. As EPA and the scientific community develop more sophisticated test mechanisms, EPA's test standards for measuring chemical persistence will address the following: (1) biodegradation—aerobic and anaerobic, (2) photochemical degradation—aquatic and atmospheric, and (3) chemical degradation—hydrolytic, reductive, and oxidative.

General Criteria for Test Selection

Test methods described in Subpart L are selected on the basis of several criteria. First, the selected methods must be capable of providing information precise enough for use in risk assessments. Selected methods also must be cost effective and be recognized by the scientific community as part of the state-of-the-art technology. Exceptions may be made when intensive surveys of the literature indicate that there are deficiencies in the state-of-the-art, such as with tests that do not answer the important questions, are poorly validated, or are inadequately described. When this occurs, hybrid tests incorporating the best features of several methods will be constructed for interim use pending the development of better methodologies and validation of

the hybrids themselves. Where problems of this type have been identified, EPA is vigorously seeking solutions through development of new tests or validation of recently developed tests that are not yet widely accepted.

IV. Scientific Policy Considerations

General

The major question which applies to all types of tests which generate data to be used in predicting environmental effects and the fate of chemical substances is the validity of using laboratory results to make predictions of chemical behavior in the "real world". Extrapolation of the results of controlled laboratory tests to predictions of the environmental behavior of chemicals is accepted practice. The alternative of testing in the environment itself is often impractical for a number of reasons. The environment is a heterogeneous entity with endless variations. Therefore, direct testing in the environment is usually limited to cases in which the specific area of chemical release is known and there is adequate assurance that the chemical would be fully contained within the proscribed area. In the absence of these conditions, field testing is often economically prohibitive and could be hazardous if chemicals of unknown toxicity were to be applied to the environment.

Since it is impossible to simulate all environments, generic testing standards must address a representative set of relevant environmental variables, chosen to be economically and technically practical. The Agency specifically solicits comment from interested parties on the adequacy with which this objective would be met by the proposed standards.

Relationship to EPA Pesticide Registration Guidelines

EPA's Office of Pesticide Programs has proposed testing guidelines under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) which contain data requirements comparable to those proposed by these standards published in the **Federal Register** of August 22, 1978 (43 FR 37336). In addition, EPA and other Federal agencies may issue regulations under other statutory authorities which would impose requirements similar to those in these standards. The Agency's policy is to reduce the burden on the regulated public which might arise from conflicting requirements under these different sets of regulations and guidelines.

Proposed test standards to meet TSCA and FIFRA requirements differ to some extent because of the Agency's need to evaluate a greater variety of chemicals and exposure situations under TSCA, and the continuing evolution of technology. For example, chemicals registered under FIFRA are known biocides and have been developed for their intentional release and destructive effects on various types of organisms. On the other hand, under TSCA, the Agency must evaluate the effects of a variety of chemicals whose harmful effects and exposure routes may or may not be known. It is logical, therefore, that EPA may take different approaches to testing these two classes of materials.

The final TSCA test standards and final FIFRA guidelines will be consistent to the extent practical. In this proposal, the major differences are that TSCA test standards include broader ranges of testing techniques within each test standard as a result of the greater variety of chemicals which may be subjected to testing under TSCA. Also, the TSCA test standards provide instructions to the tester on the selection of an appropriate technique from among those cited in the standard whereas the FIFRA guidelines do not.

A more specific discussion of the differences between individual TSCA and FIFRA standards appears in the support document of each proposed TSCA test standard.

Relationship to Interagency and International Test Guidelines

EPA is participating in two major efforts to develop multiagency agreement on test methods—one interagency and one international. EPA has joined with the Food and Drug Administration (FDA of DHHS), the Consumer Product Safety Commission (CPSC), and the Occupational Safety and Health Administration (OSHA of DOL) and the Food Quality and Safety Service (FQSS of USDA), to form the Interagency Regulatory Liaison Group (IRLG). The general purpose of the IRLG is to coordinate the regulatory activities of the five member agencies. One IRLG committee, in which EPA participates, is developing testing guidelines for human health and environmental effects. The guidelines so developed are intended to yield data acceptable to all five agencies. When proposed IRLG testing guidelines are completed, EPA will review and revise its test standards to be consistent with IRLG guidelines, to the extent that EPA's statutory responsibilities will permit.

EPA also is working with the IRLG and other agencies in the development of schemes for standardized reporting formats and improved recordkeeping and reporting. The present plan is for IRLG to announce the availability of its reporting formats as it announces the availability of its standards. To the extent practical, EPA will adopt the same reporting formats for use in reporting data from the tests outlined in these standards.

In developing chemical testing and other activities under TSCA, EPA has been a full and regular partner in extensive international consultations and activities, especially through the Organization for Economic Cooperation and Development (OECD). The Agency places high priority on these international activities and will attempt to achieve an international harmonizing of chemical testing requirements. A principal objective is to reduce the burden on the international chemical industry which might be caused by unnecessarily vague or inconsistent requirements. To the extent practical under laws of the several countries, the objective is to provide that data developed to meet one country's requirements are acceptable to another.

Comments from other countries and international organizations will be solicited and given serious consideration as the Agency develops these and other regulations. Agreement reached through the international activities in which the EPA is engaged will be considered in EPA development of regulations subject to the strictures of the Agency rulemaking process.

Future Environmental Test Standards

The Agency intends to promulgate test standards which can be applied selectively, as necessary, to obtain data on all factors which need to be known to assess a chemical's environmental effects and fate. The standards proposed here are only part of a group of tests needed to characterize chemicals and that group, in turn, is a subset of a broader category of test standards on physical, chemical, and environmental persistence characteristics.

Over the next several months the Agency also will be proposing a full range of test standards for ecological effects, ranging from simple, short-term acute toxicity tests to more complex life-cycle testing, and covering organisms found in the major compartments of both the aquatic and terrestrial environments.

The Agency currently is involved in a major research effort to develop and validate additional testing methodologies at both ends of the spectrum of complexity. A number of protocols designed to provide rapid,

inexpensive screening of chemicals for ecological effects are being investigated currently. The Agency also is pursuing complex testing systems which enable quantification of effects above the population level of ecological organization.

V. Economic Analysis

The economic analysis of test standards has two major parts. The first part involves analyzing the cost of the individual tests outlined in the standards, or the cost of the protocols associated with these standards. The second part will occur when these test standards are referenced in test rules for specific chemicals and chemical groups. The second analysis will consider the potential economic impact of these costs on the parties involved, e.g., manufacturers and/or processors.

Economic analyses for the standards proposed here are included in the support documents and in a report by Enviro Control, Inc., which is part of the public record for this rulemaking. The analyses cover only the costs of the procedures associated with these standards. The estimates were prepared from a survey of commercial laboratories, and by separating the protocol into components and estimating the cost of each component, including direct labor cost, overhead cost, other direct costs, general and administrative costs, and profit or fee. Estimates of the costs of the five tests proposed here are:

1. For density/relative density the range is $13 to $109 per test.

2. For melting temperature the range is $25 to $125 per test.

3. For vapor pressure the range is $64 to $595 per test, depending on the characteristics of the chemical and the protocol used. There may be additional costs of up to approximately $1,000 for chemical analyses, again depending on the type of material being tested.

4. For octanol/water partition coefficient the range is $100 to $1,400 per test, which may be reduced significantly if several tests are run at once. There may be additional costs of chemical analyses which will not exceed $1,000 per sample for most materials.

5. For soil thin-layer chromatography the range is $172 to $850 per test. For some chemicals there may be additional costs of chemical analyses which will not exceed $1,000 per sample for most materials. All of the above cost estimates assume that the proposed Good Laboratory Practice Standards apply to the testing.

When the Agency applies these test standards to test rules for specific chemicals and chemical groups, it will analyze the potential economic impact of these test rules on the parties subject to the rules. This analysis will consider the market, financial, and economic conditions of the chemicals involved, either as individual chemicals or as members of a group. It will consider the impact of the test costs on production, by considering such items as price changes, demand elasticities, and the availability of substitutes, and it will consider the ability of the income from a chemical to support testing required. The economic impact analysis of the combination of tests will be presented in support documents when the test rules are proposed; they will be subjected to public comment, and revised if needed. Economic factors relating to individual tests will be considered in developing all test rules.

VI. Public Meetings

EPA personnel responsible for developing these proposed Environmental Test Standards will be available to meet with interested persons from companies, trade associations, organized labor and citizen organizations on February 10, 1981 at: Skyline Inn, South Capitol & I Streets, SW., Washington, D.C.

The meeting will be from 1 p.m. to 5 p.m. This location is three blocks east of the EPA Headquarters, Waterside Mall, 401 M St., SW., Washington, D.C. Persons who wish to make presentations should request time by contacting the Industry Assistance Office by telephone, either toll free (800–424–9065) or on 554–1404 in Washington. Time will be scheduled between 1 p.m. and 5 p.m. The Agency will make a transcript of the sessions for inclusion in the official public record. Participation in a session will be limited to those who have requested that time to make oral comment.

One purpose of providing this opportunity for oral comment is to provide EPA with information on costs and approaches to compliance for impacted companies, especially small ones. The other purpose of this public meeting is to allow EPA to digest the scope and nature of written comments on scientific and technical points before hearing oral argument or comment on them. The Agency's general criterion for alloting time will be that a person has an interpretation, data or experience that is best presented orally with the opportunity for cross-checking communication with the Agency. In this case, an additional criterion will be that a person has a review of the written commentary already submitted to share with the Agency. EPA's experience has shown that this roundtable format for public meetings by request that are open to the public yields more productive exchanges for both commentators and the Agency. EPA encourages commentators to use the toll free telephone to ask questions of clarification early in the written comment period to aid their formulating their comments.

VII. Public Record

EPA has established a public record for this rulemaking docket number [OPTS 46007] which along with a complete index is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. (Rm. E–447, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information:

1. USEPA–OPTS. "Proposed Environmental Effects Test Standards for Toxic Substance Control Act Test Rules."

2. USEPA–OPTS. "Proposed Environmental Effects Test Standards for Toxic Substance Control Act Test Rules." Support Documents.

3. USEPA–OPTS. "Toxic Substances Control Act Premanufacture Testing of New Chemical Substances" (44 FR 16240) and all public comments received on this discussion document.

4. Drafts of the proposed rules, the preamble, and the support documents which were available for public comment.

5. Correspondence pertaining to the development of the standards, the preamble, or the support document. This does not include inter- or intra-agency correspondence, unless specifically noted in the index to the rulemaking record.

6. Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

7. Scientific papers relevant to issues relating to these tests which were used by the Agency in developing this proposal.

8. Contractor's report, "Cost Analysis Methodology and Protocol Estimates: Environmental Standards," by Enviro Control, Inc., April 28, 1980, p. 26.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional and relevant material for the record at any time between this proposal and the final designation of the rulemaking record, on or before the date of promulgation of these requirements as prescribed by TSCA section 19(a)(3). During the rulemaking proceeding, interested persons should notify EPA of

additions they believe should be made to the record. EPA particularly encourages this notification during the early part of the comment period.

VIII. Proposed Test Standards

The following introductory material applies to the five specific test standards included in this proposal:

Density/Relative Density

The density of a substance influences movement of a chemical in the environment. Solids and liquids will float or sink in water depending on their density, and lightweight granular materials will be more easily transported in the air than will heavy materials. Tests for determining density are inexpensive and most testing laboratories will be able to run the tests with at least the accuracy required by EPA.

The test standard requires sponsors to determine density or density relative to water or air (relative density) at ambient temperature. It is written in a general way, to permit the selection of a technique appropriate to the particular chemical from a variety of available techniques. These techniques were selected on the basis of their relatively low cost and acceptability by the scientific community as outlined in the support document. A theoretical calculation of density is specified for gaseous materials, but the measurement of real gas density is permitted as an option.

Factors that influence the selection of a technique for a liquid test material include volatility and viscosity. Factors that influence the selection of a technique for a solid test material include particle size, wetability by possible immersion liquids, and solubility in possible immersion liquids. The test is to be performed at standard reference temperatures.

Melting Temperature

The melting temperature describes whether a chemical substance or mixture will be solid or fluid under ambient pressure. This information will allow the Agency to determine the form in which the chemical will be found when in the environment. The form is important because it determines whether the chemical will stand in place or flow away from spills, stockpiles, or places of use or disposal. When combined with density information and solubility information it determines how the chemical will move in a waterway; when combined with other information such as volatility and particle size, it determines the distribution and dispersal of the material.

Melting temperature is the temperature at which the change from solid to liquid takes place. In practice many materials, particularly those that are mixtures or form glasses, do not melt sharply at a well defined temperature, but rather soften and liquify over a range of temperatures. For these materials other terms are used, including pour point, congealing temperature, initial and final melting temperature, or melting range. In addition, impurities influence the melting temperature, sometimes by many degrees.

The proposed test standard would require sponsors to determine melting temperature of the test chemical or the range of temperature over which it melts, within the range from −30°C to +250°C. Ambient temperatures in the United States rarely go below −30°C in the winter and above 43°C in the summer. Higher temperatures, such as are caused by the sun shining on dark surfaces or by heated apparatus, give an upper limit of interest of 250°C. Most environmental surfaces are below this temperature at all times and even heated apparatus cools below this temperature within minutes after being turned off. The standard is written to permit selection of an appropriate technique from a spectrum of techniques selected on the basis of their relatively low cost and acceptability to the scientific community as outlined in the support document.

Vapor Pressure

The vapor pressure of a chemical affects the tendency of a substance to volatilize, and therefore is important in determining the environmental fate of the chemical.

Volatilization is the loss of a substance from a surface or from solution by evaporation, and volatilization from land and water surfaces is the most important source of material for airborne transport. Volatilization is probably the single largest means by which pesticides are lost and transported over wide areas and into bodies of water far from the application location. The airborne vapors of a hazardous chemical may present a threat to humans and other life exposed to those vapors, not only in the areas of chemical release but also at sites remote from the volatilization site. This occurs when vapors are removed from the air, primarily by precipitation with rain or snow.

There are several procedures for the measurement of vapor pressure. These include static procedures, boiling point procedures, methods of vapor transfer by a current of inert gas ("gas saturation" or "transpiration" techniques), evaporation from an open surface, and effusion procedures. There are also many specialized techniques that have been used for very precise vapor pressure determinations of specific kinds of materials or for micro and semimicro determinations.

A procedure for measuring the vapor pressure of materials released to the environment ideally would cover a wide range of vapor pressure values, at ambient temperatures. No single procedure can cover this range, so two different procedures are described in this test standard, each suited for a different part of the range. The isoteniscope procedure is for pure liquids with vapor pressures from 0.1 to 100 kPa. For vapor pressure of 10^{-5} to 10^{3} Pa, a gas saturation procedure is to be used.

The isoteniscope procedure uses a standardized technique that was developed to measure the vapor pressure of certain liquid hydrocarbons. The sample is purified within the equipment by removing dissolved and entrained gases until the measured vapor pressure is constant, a process called "degassing." Impurities more volatile than the sample will tend to increase the observed vapor pressure. Results are subject to only slight error for samples containing non-volatile impurities.

The gas saturation procedures described utilize relatively simple equipment. Results are easy to obtain and can be quite precise. The same procedures also can be used to study volatilization from laboratory-scale environmental simulations.

Octanol/Water Partition Coefficient

The tendency of an organic chemical to bioconcentrate in living cells can be inferred from the value of the octanol/water partition coefficient, K_{ow}. Chemicals with K_{ow} less than 10 will not significantly partition into, or tend to accumulate in, living cells. Chemicals with K_{ow} greater than 10^{6} will tend to accumulate. Chemicals that exist in the environment at subtoxic levels may bioconcentrate to toxic levels once inside organisms.

This test standard describes a detailed and commonly used procedure for determination of the octanol/water partition coefficient K_{ow} for organic chemicals. The method determines the distribution of the chemical between octanol and water after equilibration. Values of K_{ow} can then be calculated from the resulting data. The test standard is designed to determine the octanol/water partition coefficient of the test chemical in the range 10 to 10^{6}. For chemicals whose values lie outside

this range, K_{ow} should be characterized as less than 10 or greater than 10^6 with no further quantification.

Other methods for determining or estimating partition coefficients such as reverse phase-high pressure liquid chromatography were rejected for reasons presented in the support document.

Soil Thin-Layer Chromatography

Soil thin-layer chromatography (TLC) is a qualitative screening method for estimating a chemical's leaching potential. Leaching of chemicals through soil is an important process which determines if a chemical will reach the ground water or remain at or near the soil surface. If a chemical reaches groundwater or remains at the soil surface, deleterious environmental and human health effects may arise due to plant and animal uptake and through the contamination of food and water supply.

This test was selected over the soil isotherm and soil column methods since it is the least expensive and most widely used technique for the screening of a chemical's leaching potential.

General Statement on Hazardous Solvents

Several of the tests contained in this standard require the use of solvents which are known or suspected to be hazardous. In a few cases the solvents are specified, e.g., benzene, and in other cases, where the tests specify a "solvent of choice," it is expected that benzene, or toluene, or other similar materials may be selected.

The Good Laboratory Practice Standards and other procedural specifications warn testing laboratories that such known or suspected hazardous materials should be used in these tests only in strict accordance with protective measures that will safeguard the laboratory personnel performing the tests.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 4, Toxic Substances Control (TSCA), (90 Stat. 2006 (15 U.S.C. 2603)))

Dated: September 25, 1980.

Douglas M. Costle,

Administrator.

Therefore, it is proposed that 40 CFR Part 772 be amended by adding a new Subpart L to read as follows:

Subpart L—Physical, Chemical, and Environmental Persistence Characteristics

Sec.

772.122–1 Density/relative density.
772.122–2 Melting temperature.
772.122–3 Vapor pressure.
772.122–4 Octanol/water partition coefficient.
772.122–5 Soil thin-layer chromatography.

§ 772.122–1 Density/relative density.

(a) *Purpose.* This standard will develop data on density and relative density (specific gravity) of chemical substances and mixtures. EPA will use the data on density to evaluate the manner and extent that chemicals will be transported in the environment and the places where they will be deposited.

(b) *Definitions.* (1) "Apparent density" is the weight in air of a unit volume of a material. It differs from the density in that the buoyancy correction has not been applied, and normal gravity is assumed.

(2) "Apparent relative density" differs from the relative density in that the buoyancy corrections for the materials and the reference material have not been applied. For this test apparent relative density will be accepted as relative density.

(3) "Bulk density" of a material is the mass of material in a container divided by the volume of the container. In a loosely packed granular or powdery solid, a substantial fraction of the total space is occupied by gas that fills the interstices, and therefore bulk density is substantially less than the particle density. This test standard does not determine bulk density, it determines the particle which is the true density of the material.

(4) "Density" is the mass of a unit volume of a material. It is a function of temperature, hence the temperature at which it is measured should be specified. For a solid, it is the density of the impermeable portion rather than the bulk density.

(5) "Relative density" ("specific gravity") is the ratio of the density of a material to that of a reference material, each measured under specified conditions of temperature and pressure. For liquids the reference material is gas-free distilled water; for gases, it is dry air of normal carbon dioxide content.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing in § 772.110–2 must be followed in performing this standard.

(d) *Conditions*—(1) *Apparatus.* The apparatus used for experimental tests must be of a type appropriate for the measurement technique being used, and must meet the following specific standards: Thermometers must conform to specifications as specified in the standard density measurement technique selected, and shall have a calibration traceable to the National Bureau of Standards. Other apparatus must conform to specifications of the protocol selected according to paragraph (e) of this section.

(2) *Materials.* The following materials must be available:

(i) Density reference substances as required by the technique, for calibrating the density-measurement apparatus and for comparative density measurements, selected from or in addition to the following list, and prepared according to the recommendation of the technique used in Table 1 under paragraph (e)(1)(i) of this section: gas-free distilled or demineralized water, mercury, standardized glass, cyclohexane, or toluene.

(ii) Comparison gases, as required by the technique, for relative density measurements of gases, or for displacement by solids. Suggested comparison gases are helium or dry air.

(iii) Immersion liquids as required by the technique and by the substance to be tested. Suggested immersion liquids are: water, kerosine, glycerine, ethylene glycol, tetrahydronaphthalene alpha-bromonaphthalene, sym-tetra-bromoethane, methylene iodide, benzene, toluene, ethyl-benzene, *o*-, *m*-, *p*-xylene, styrene, cyclohexane, or isopropyl salicylate.

(3) *Temperature of test.* (i) The density or relative density of the material must be determined at 25°C (298.15 K), except as allowed in paragraph (d)(3)(ii) or (iii), of this section.

(ii) If the material is an industrial material of a class for which engineering standards for measurement have been set at 15°C, the density may be measured at 15°C (288.15 K).

(iii) If the material belongs to a class of chemicals for which international measurement standards have been set at 20°C, the density may be determined at 20°C (293.15 K).

(e) *Procedures*—(1) *Selection of technique.* (i) Determine density or relative density using the appropriate technique, as specified below, selected from the techniques listed in Table 1 in this paragraph (e)(1)(i) and using the detailed techniques standardized for that procedure by one of the standardizing bodies identified in the following Table 1:

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TABLE 1-STANDARD DENSITY—MEASUREMENT TECHNIQUES REFERENCED IN THIS STANDARD

TECHNIQUE		CLASS OF SUBSTANCE			STANDARDIZING BODY AND IDENTIFICATION NUMBER		
		GAS	LIQUID	SOLID	ANSI/ASTM[1,2]	BSI	CIPAC
Ideal Gas Calculation		X					
Gas Density Balance		X			D 1070-73 (1979) [26]		
Hydrometer[6]			X		D 1298-67 (1977) [40][3] D 1657-64 (1976) [23] D 891-59 (1976) [29]	4714	MT3
Hydrostatic[7] Displacement			X	Chunks	D 792-66 (1979) [35] C 830-79 [17] D 891-59 (1976) [29] C 693-74[4] [17]		
Sink-Float Comparator				Chunks	C 729-75 [17]		
Pycnometer-Narrow-Mouth	Sprengel-Ostwald[6]		X				
	Lipkin Bicapillary[6]		X		D 941-55 (1978) [23][5] D 1481-62 (1976) [23, 40] D 3505-78 [29]	4699	MT3
	Bingham		X		D 891-59 (1976) [29] D 1217-54 (1976) [23] D 1480-62 (1976) [23]		
Pycnometer-Wide-Mouth	Volumetric Flask		X	Powder Crystals Chunks	D 153-54 (1975) [28] D 1076-79 [37]		
	Thermometer Stoppered		X	Powder Crystals Chunks	C 135-66 (1976) [17] D 792-66 (1979) [35]		
	Capillary Stopper[6]		X	Powder Crystals Chunks	D 1076-79 [37] D 153-54 (1975) [28] D 1817-66 (1972) [37] D 792-66 (1979) [35] D 891-59 (1976) [29]	5093	MT3
	Johnson and Adams		X	Powder Crystals Chunks			
Gas Comparison Pycnometer				Powder	C 604-79 [17]		

[1] Unless otherwise specified, these are joint standards.

[2] In brackets by ASTM Test Standard number is the volume number in which the standard appeared in the 1979 or 1980 Annual Book of ASTM Standards. Numbers in parentheses indicate the year of last reapproval.

[3] Adopted by American Petroleum Institute as API Standard No. 2547 and by the Institute of Petroleum as IP Standard No. 160.

[4] ASTM only

[5] Adopted by the General Services Administration as Method 402, Federal Test Method Standard 791b.

[6] DIN standard 51757 is acceptable.

[7] ISO Recommendation R 1183 is acceptable for plastics.

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Code to Standardizing Bodies in Table 1

ANSI—American National Standards Institute.
ASTM—American Society for Testing and Materials.
BSI—British Standards Institution.
IP—Institute of Petroleum.
CIPAC—Collaborative International Pesticides Analytical Council.
DIN—Das Ist Norm (earlier Deutsche Industrienormen).
API—American Petroleum Institute.
ISO—International Organization for Standardization.

The test standards in Table 1 of paragraph (e)(i)(i) of this section are incorporated by reference. Standards are available for purchase as follows:

ANSI, BSI, ISO, and DIN standards are available from: Sales Department, American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASTM standards are available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

API standards are available from: American Petroleum Institute, 2101 L Street NW., Washington, DC 20037.

IP standards are found in "Methods for Analysis and Testing" 38th Annual Edition, 1979. IP Standards for Petroleum and its Products. Part 1, Volume 1, which is available from Hayden and Son, Ltd., Spectrum House, Alderton Cres., London NW4 3XX U.K.

CIPAC standards are found in Raw GR, edition 1970, CIPAC Handbook, Volume 1. Analysis of Technical and Formulated Pesticides, published by the Collaborative International Pesticides Analytical Council Ltd., which is available for purchase from National Agricultural Chemicals Association, 1155 Fifteenth Street, NW., Washington, DC 20005.

The test standards are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L St., NW., Washington, DC 20408.

(ii) The technique to be used shall be selected on the basis of physical characteristics of the material to be tested as outlined in paragraphs (e)(1)(ii)(A) through (G) of this section and in Table 2 under paragraph (e)(1)(ii)(G) of this section.

(A) For a gas or a high volatility liquid, by the criterion in Table 2 in paragraph (e)(1)(ii)(G) of this section, the density and the relative density of the gas phase must be calculated by the ideal gas law as described in paragraph (e)(4)(ii) of this section, or

(B) At the option of the sponsor, the real gas density and relative density may be determined by the gas-density-balance technique in Table 1 under paragraph (e)(1)(i) of this section.

(C) For a high volatility liquid by the criterion in Table 2 under paragraph (e)(1)(ii)(G) of this section, the density or relative density must be determined by the hydrometer technique, or by the narrow-mouth pycnometer technique. For this class of liquid, the pycnometer capillary openings must have a cover to prevent evaporation.

(D) For a low volatility liquid of low viscosity by the criteria in Table 2 under paragraph (e)(1)(ii)(G) of this section, the density or relative density must be determined by the hydrometer technique, by the hydrostatic displacement technique, by the narrow-mouth pycnometer technique, or by the wide-mouth pycnometer technique. If the vapor pressure of liquid exceeds 15 kPa (0.15 atm), precautions must be taken to prevent excessive vaporization in carrying out these techniques.

(E) For a low volatility liquid of high viscosity, the density or relative density must be determined by the hydrometer technique, by the hydrostatic displacement technique, or by the wide-mouth pycnometer technique.

(F) For a solid in chunks or pieces the density or relative density must be determined by the hydrostatic displacement technique, by the sink-float comparator technique, or by the wide-mouth pycnometer technique. If the material is soluble in water or is not wetted by water, the immersion liquid must not be water, but must be another appropriate liquid in which the material is not soluble; in paragraph (d)(2)(iii) of this section.

(G) For a solid powder or small crystals, the density or relative density must be determined by the wide-mouth pycnometer technique or by the gas-comparison pycnometer technique. If the material is soluble in water or is not wetted by the water the immersion liquid used in the wide-mouth pycnometer technique must not be water but must be another appropriate liquid in which the material is not soluble; in paragraph (d)(2)(iii) of this section.

TABLE 2-PHYSICAL CHARACTERISTICS OF THE TEST MATERIAL FOR USE IN SELECTION OF MEASUREMENT TECHNIQUE

PHYSICAL STATE	CHARACTERIZING PARAMETER	DESCRIPTION AND APPROXIMATE LIMITS
Gas	Ideality	Ideal Gas Non-Ideal Gas
Liquid	Volatility[1]	Low Volatility p^o (25°C) < 80 kPa (0.8 atm)
		High Volatility p^o (25°C) > 15 kPa (0.15 atm)
	Viscosity[2]	Low Viscosity η (25°C) < 400 cm^2s^{-1}
		High Viscosity η (25°C) > 15 cm^2s^{-1}
Solid	Particle Size	Powder
		Small Crystals
		Chunks or Pieces
	Interfacial Tension	Wetted by Water
		Not Wetted by Water
	Solubility in Water	Soluble (> 1 Percent) Insoluble (< 1 Percent)

[1] p^o is the vapor pressure of the liquid. There is a range of vapor pressures, 0.15 to 80 kPa, in which a liquid may be treated as either a low-volatility liquid or a high-volatility liquid.

[2] η is the kinematic viscosity. There is a range of viscosities, 15 to 400 cm^2s^{-1}, in which a liquid may be treated as either a low-viscosity liquid or a high-viscosity liquid.

(2) *Calibration.* For any technique other than the calculation of ideal gas density, the instrument used must be calibrated using a reference substance of known density as recommended in paragraph (d)(2)(i) or (g)(2)(ii) of this section.

(3) *Conduct.* Replicate measurements shall be made and averaged as prescribed in the description of the technique as referenced in Table 1 in paragraph (e)(1)(i) of this section.

(4) *Calculation.* (i) Except for the calculation of ideal-gas density, calculate density or relative density as prescribed in the description of the technique.

(ii) For calculation of ideal gas density and relative density, use the procedure given in paragraph (e)(4)(ii) (A) through (C) of this section.

(A) Calculate the molecular weight M, from the molecular formula and the relative atomic weights of the elements.

(B) Calculate the ideal gas density, ρ, in kg m^{-3}, at a temperature of 25°C (T=298.15 K) and a pressure of 101.325 kPa (p=1 atm) using the formula:

Equation 1

$$\rho\ (25°C, 1\ atm)/\ kg\ m^{-3} = 101.325M/(8.3143 \times 298.15) = 0.040875M,$$

for which M was determined in paragraph (e)(4)(ii)(A) of this section.

(C) Calculate the relative density $d_{25}/_{25C}$ with respect to air from the formula:

Equation 2

$$d_{25}/_{25C} = M/28.964,$$

in which M was determined in paragraph (e)(4)(ii)(A) of this section.

(f) *Reporting.* (1) Report information required in the Good Laboratory Practice Standards under § 772.110–2(h).

(2) Report the physical characteristics of the material using descriptors from Table 2 in paragraph (e)(1)(ii)(G) of this section.

(3) Report measurement of density or relative density at a single temperature, and in the case of gases at a single pressure. The measurement must be at one of the temperatures specified in paragraph (d)(3) of this section.

(i) Report the density ρ of gases in kg m^{-3} and of liquids and solids in kg m^{-3} and report the temperature at which it was determined, or

(ii) Report the relative density, $d_t°_C$ in which t refers to the temperature of the material and of the reference substance (water or air) in °C. Report only relative densities in which the temperatures of the two materials are the same.

Identify the reference substance

(4) Report the technique used and identify the standard description of the technique from Table 1 under paragraph (e)(1)(i) of this section.

(5) Report the calibration substance used and, if relevant, the immersion substance used.

(6) Report the range of replicate measurements on the samples tested.

(7) If the material is variable in composition or has a variable density because of processing procedures, state the range of densities that conform to the specification of the material.

§ 772.122–2 Melting temperature.

(a) *Purpose.* This standard is to determine values of (normal) melting temperature of chemical substances and mixtures. EPA will use the data obtained to assess the potential for movement of materials in the environment and in evaluation of possible health and environmental effects.

(b) *Definitions.* (1) "Cooling curve melting temperature" is the temperature at which a melted material first shows a minimum rate of temperature change as it solidifies when allowed to cool under prescribed conditions.

(2) "Congealing temperature" is the temperature at which a wax ceases to flow when allowed to cool under prescribed conditions.

(3) "Drop melting temperature" is the temperature at which a wax becomes sufficiently fluid to drop from the thermometer used in making the determination under prescribed conditions.

(4) "Final melting temperature" is the temperature at which the last sample crystal disappears into the melt.

(5) "Initial melting temperature" is the temperature at which positive evidence of formation of liquid occurs; it is not a preliminary contraction, sintering, or darkening but occurs well before the formation of a meniscus.

(6) "Normal melting temperature" is the temperature at which the solid and liquid forms of a chemical substance are in equilibrium under an external pressure of one atmosphere. Normal melting temperature is commonly called "melting point."

(7) "Pour point" is the lowest temperature at which an oil is observed to flow when cooled under prescribed conditions.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing in § 772.110–2 must be followed in performing this standard.

(d) *Conditions*—(1) *Laboratory apparatus.* (i) Thermometers used for this test must be of appropriate temperature range and meet specifications cited in the selected standard technique referenced in Table 1 under paragraph (e)(3)(iv) of this section with subdivisions of 1°C or smaller, and be capable of being read to 0.25°C. The thermometer must have a calibration traceable to the National Bureau of Standards.

(ii) The melting temperature apparatus must be of the type specified for use with the appropriate standard technique referenced in Table 1 under paragraph (e)(3)(iv) of this section or other acceptable technique. Equipment must meet the specifications in that technique, together with specified auxiliary instruments referenced in the same technique.

(2) Reference materials of known melting temperatures must be available for calibration of apparatus and verification of procedures. These are to be of a purified grade with melting temperature certified by the supplier. Reference materials include but are not limited to:

Benzene, 6°C.
L-Menthol, (42–43)°C.
Azobenzene, (68±1)°C.
Hydroxyquinoline, (75–76)°C.
Naphthalene, (80±0.5)°C.
Acetanilide, (113–114)°C.
Benzoic Acid, (122±1)°C.
Succinic Acid, (189–190)°C.
Phenolphthalein, (261–262)°C.

A list of substances for which the melting temperature is recommended as a thermometric fixed point is given by IUPAC (1979) in the 1979, International Union of Pure and Applied Chemistry Catalog of Reference Materials from National Laboratories. It is in the 1976 International Union of Pure and Applied Chemistry "Physicochemical Measurements: Catalog of reference Materials from National Laboratories" which is incorporated by reference. This list appeared in 1976 in Pure and Applied Chemistry, Vol. *48*, pages 503–515. It is for sale from Pergamon Press Inc., Maxwell House, Fairview Park, Elmsford, NY 10523. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L St., NW., Washington, DC 20408. Many of these substances can be obtained from a standardizing laboratory with a certified value of melting and freezing temperature.

(e) *Procedures.* (1) The test must be performed by a visual technique, in

which the transition between solid and liquid is observed.

(2) A preliminary examination of the material must be made to determine:

(i) Whether the material is sharply melting or passes through an extended softening interval.

(ii) Whether the material decomposes on melting.

(iii) Whether the material oxidizes or undergoes other reactions in air at or below the melting temperature.

(iv) Whether the material volatilizes rapidly so as to require special handling.

(v) Whether the material melts below −20°C or above +250°C.

(3) Since chemicals vary in their physical form and properties, several techniques, have to be available to accommodate these differences. Therefore, the test shall be performed by one of the standard techniques listed below and (or) in Table 1 under paragraph (e)(3)(iv) of this section, as provided below, except as provided in paragraph (e)(4) of this section.

(i) If the sample passes through an extended softening interval, use the drop melting point technique, the pour point technique, or the cooling curve technique.

(ii) If the material decomposes on melting use the Fisher-Johns technique, the microscope hot stage technique, or the Kofler hot bench technique.

(iii) If the material reacts or volatilizes use a suitable sealed tube technique.

(iv) For materials not exhibiting special properties listed in paragraph (e)(3) (i), (ii), or (iii) of this section, use the Thiele tube, cooling curve, Fisher-Johns, microscope hot stage, or Kofler hot bench technique as specified in this Table 1.

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TABLE 1-STANDARD MELTING TEMPERATURE TECHNIQUES REFERENCED IN THIS STANDARD

TECHNIQUE	STANDARDIZING BODY[1]					
	ANSI/ASTM[2,3]	TAPPI	FTS[4]	BSI	IP	CIPAC
Thiele Tube	E 324-79 [30] D 1519-68[5] (1974) [37]					MT2
Cooling Curve	D 87-77 [23] [20]	T630-os-71	791B#1402.5	4695	55	MT1
Fisher-Johns	D 789-78a [36] D 1457-78 [36] D 2116-79 [36] D 2133-78 [36]					
Microscope Hot Stage	D 2117-64 (1978) [35]					
Kofler Hot Bench	D 3451-76 [27]					
Drop Melting Point	D 127-63 (1977) [23] [20]	T634-os-70	791B#1401.4	5090	133	
Pour Point	D 97-66 (1978) [23] [40]		791B#201.9	4452	15	
Congealling Point	D 938-71 (1976) [23]			5088	76	

[1]Names of standardizing bodies are given in text.
[2]Joint standard unless otherwise specified.
[3]In brackets by ASTM Test Standard number is the volume number in which the standard appeared in the 1979 or 1980 Annual Book of ASTM Standards. Numbers in parentheses indicate the year of last reapproval.
[4]Identical to ANSI/ASTM standard.
[5]ASTM only.

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Code to Standardizing Bodies in Table 1

ANSI—American National Standards Institute.
ASTM—American Society for Testing and Materials.
TAPPI—Technical Association for the Pulp and Paper Industry.
FTS—Federal Test Standards.
BSI—British Standards Institution.
IP—Institute of Petroleum.
CIPAC—Collaborative International Pesticides Analytical Council.

The test standards in this Table 1 are incorporated by reference. Standards are available for purchase as follows:

ANSI and BSI standards are available for puchase from: Sales Department, American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASTM standards are available for purchase from : American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103.

TAPPI standards are available for purchase from: TAPPI Press, Technical Association of the Pulp and Paper Industry, One Dunwoody Park, Atlanta GA 30338.

FTS Standards are identical to the corresponding ASTM standards and should be obtained from the same source as ASTM standards.

IP standards are found in "Methods for Analysis and Testing," 38th Annual Edition, IP Standards for Petroleum and its Products, Part 1, Volume 1, which is available for purchase from: Hayden and Son, Ltd., Spectrum House, Alberton Cres., London NW4 3XX, United Kingdom.

CIPAC standards are found in Raw, GR, editor. 1970. CIPAC Handbook, Volume 1. Analysis of Technical and Formulated Pesticides, published by the Collaborative International Pesticides, Analytical Council Ltd., which is available for purchase from: National Agricultural Chemical Association, 1155 Fifteenth Street, NW., Washington, DC 20005.

The test standards are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L St. NW., Washington, DC 20408.

(4) If the material is subjected to a study of its melting temperature by a more accurate procedure than those listed in Table 1, the procedure used will be accepted in lieu of the procedure of paragraph (e)(3) of this section, provided that the preliminary examination given in paragraph (e)(2) of this section has been completed and does not contraindicate the substitute procedure.

(f) *Reporting.* In addition to reporting required in § 772.110–2(h) of Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, report the following:

(1) Report the results of the preliminary examination by giving the temperature range, where applicable, at which the sample:

(i) Decomposes before melting.

(ii) Decomposes on melting.

(iii) Oxidizes (or other reaction) in air on melting.

(iv) Softens over a range of temperatures.

(v) Melts sharply.

(vi) Was examined and did not melt. If the chemical decomposes as a solid or if it sublimes, melting temperature data will not be required. If decomposition occurs, report the temperature at which it occurs. If sublimation occurs, report the maximum temperature to which it was tested.

(2) Report the technique used in the melting temperature determination and the reference material used.

(3) If the technique is selected in accordance with paragraph (e)(3)(iii) or (4) of this section and is different from any listed in Table 1 in paragraph (e)(3)(iv) of this section:

(i) Briefly, describe it, cite a reference to the technique, and provide justification that it is more accurate than techniques listed in Table 1 under paragraph (e)(3)(iv) of this section.

(ii) Report the initial melting tempera ture, the final melting temperature, and the limits of uncertainty at the 95 percent confidence level.

(4) If the Thiele tube technique is used report:

(i) The initial melting temperature and the final melting temperature to the nearest 0.1°C and the range of replicate measurements made, adjusted for any errors in the melting temperature of the reference material.

(ii) The identity, the initial melting temperature, and the final melting temperature found for the standard reference material used to verify the performance of the instrument.

(iii) The amount of any adjustment made to correct for errors in the melting temperature of the standard.

(5) If the cooling curve technique is used:

(i) Record the melting temperature thermometer reading every 15 seconds to the nearest estimated 0.05°C and identify and report the plateau at which the first five consecutive readings agree within 0.1°C. Report the average of the first five consecutive readings of the identified plateau, which agree within 0.1°C. Correct this average for error in the thermometer scale.

(ii) Report the result to the nearest 0.05°C as "cooling curve melting temperature."

(iii) If no plateau is observed within the stipulated temperature limitations below a temperature at which the material has solidified, the test is discontinued and the method is judged not applicable to the material.

(iv) Report the range of cooling curve melting temperatures that conforms to the specification of the material under test.

(6) If the pour point technique is used:

(i) Record the reading of the thermometer when a point is reached at which the material in the test jar shows no movement when the jar is held in a horizontal position for 5.0 seconds. Add 3°C to this temperature to obtain the pour point temperature.

(ii) For those samples (e.g., nondistillate fuel oil) where the prescribed procedure gives the upper (maximum) pour point, report the lower pour point obtained after heating the sample to 104°C as prescribed.

(iii) Record all pour points to the nearest 1°C.

(iv) Report the limits of pour point or of upper pour point and lower pour point that conform to the specification of the material under test.

(7) If the drop melting temperature technique is used:

(i) Report the average of the two determinations of the temperature at which the first drop falls from the thermometer as the drop melting temperature of the sample of material under test, and also report the range of the two determinations.

(ii) Report the limits of drop melting temperature that conform to the specification of the material under test.

(8) If the Fisher-Johns technique is used for ANSI/ASTM Standards D 789 and D 2133 as listed in Table 1 under paragraph (e)(3)(iv) of this section:

(i) Report the melting temperature to the nearest 0.5°C observed as the temperature at which the material no longer supports the cover glass and the glass begins to sink into the oil, as observed by watching for movement of the oil meniscus. The thermometer with its bulb imbedded immediately below hot stage indicates the melting temperature.

(ii) Report the range of melting temperature that conforms to the specification of the material under test.

(9) If the microscope hot stage technique is used:

(i) Report as the normal melting temperature the average of the results of two determinations and range of values observed when all double refraction disappears, leaving a totally dark microscope field.

(ii) If the material is a polymer report the range of melting temperature that

conforms to the specification of the material under test.

(10) If the Kofler hot bench technique is used:

(i) For sharply melting materials, record the placement of the temperature-indication pointer at the point of division between solid and liquid on the heating bar.

(ii) For polymeric materials record the placement of the temperature-indicating pointer at the location at which particles adhere to the heating bar when lightly brushed.

(iii) Report the average of duplicate determinations to the nearest 1°C as the normal melting temperature of the sample tested, and report the range of the duplicate determinations.

(iv) If the material is a polymer, report the range of melting temperatures that conforms to the specification for the material under test.

(11) If the congealing point technique is used:

(i) Report to the nearest 0.25°C as the congealing temperature the average of two determinations that agree within 1°C or the average of three determinations for which the range exceeds 1°C.

(ii) Report the range of congealing temperatures that conforms to the specification of the material under test.

§ 772.122–3 Vapor pressure.

(a) *Purpose.* The standard in this subpart is designed to develop values of vapor pressure, at environmentally relevant temperatures, of chemical substances. The EPA will use the data to evaluate transport in the environment.

(b) *Definitions.* (1) "Desorption efficiency" of a particular compound applied to a sorbent and subsequently extracted with a solvent is the weight of the compound which can be recovered from the sorbent divided by the weight of the compound originally sorbed.

(2) "Pascal" (Pa) is an international unit of vapor pressure and is defined as newtons per square meter (N/m^2). A Newton is the force necessary to give acceleration of one meter per second squared to one kilogram of mass.

(3) The "torr" is a unit of pressure defined as equal to 133.3 pascals or 1 mm Hg at 0°C.

(4) The "vapor pressure" is the pressure at which a liquid or solid is in equilibrium with its vapor at a given temperature.

(5) "Volatilization" is the loss of a substance to the air from a surface or from solution by evaporation.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.* (1) The apparatus used for the test procedures must be of a type appropriate for the measurements described in paragraphs (e) and (g) of this section.

(2) The tests must be performed under conditions of normal laboratory room temperatures.

(e) *Procedures.* The vapor pressure of compounds must be determined by one of the following procedures.

(1) *Isoteniscope procedure.* The isoteniscope procedure described as ANSI/ASTM Method D 2879–75 is applicable for the measurement of vapor pressures of liquids with vapor pressures of 0.1 to 100 kilopascals (kPa) (0.75 to 750 torr). ANSI/ASTM D 2879–75, "Standard Test Method for Vapor Pressure-Temperature Relationships And Initial Decomposition Temperature of Liquids by Isoteniscope", is incorporated by reference. It is for sale from the American Society for Testing and Materials, 1916 Race Street, Philadelphia Pa. 19103. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW, Washington, D.C. 20408. The isoteniscope method involves placing a liquid sample in a thermostated bulb (the isoteniscope) connected to a manometer and a vacuum pump. Dissolved and entrained gases are removed from the sample in the isoteniscope by heating the sample at reduced pressure. The vapor pressure of the sample at selected temperatures is determined by balancing the pressure due to the vapor of the sample against a known pressure of an inert gas. The vapor pressure of the test compound must be determined in triplicate at 25 ± 0.5°C and at any other temperatures (± 0.5°) specified in a Test Rule. Additional vapor pressure measurements must be made at appropriate temperatures, as necessary, to assure that there is no need for further degassing, as described in the ASTM method.

(2) *Gas saturation procedure.* The gas saturation procedure, described in paragraph (g) of this section, is applicable for solids and liquids with vapor pressures at ambient temperatures of 10^{-5} Pa to 1 kPa (7.5×10^{-8} torr to 7.5 torr).

(f) *Reporting.* (1) Report information required in § 772.110–2 (h) of Good Laboratory Practice Standards.

(2) The triplicate calculated vapor pressures for the test material at each test temperature and the average calculated vapor pressure at each temperature must be reported.

(3) A description of analytical methods used to analyze for the test material and all analytical results must be reported.

(4) For the isoteniscope procedure, the plot of log p vs the reciprocal of the temperature in K, developed during the degassing step and showing linearity in the region of 298.15 K (25°C) and any other required test temperatures, must be included.

(5) For the gas saturation procedure, the data must include calculations of vapor pressure at three or more gas flow rates at each test temperature, showing no dependence on flow rate. The data also must include a description of sorbents and solvents employed and the desorption efficiency calculations.

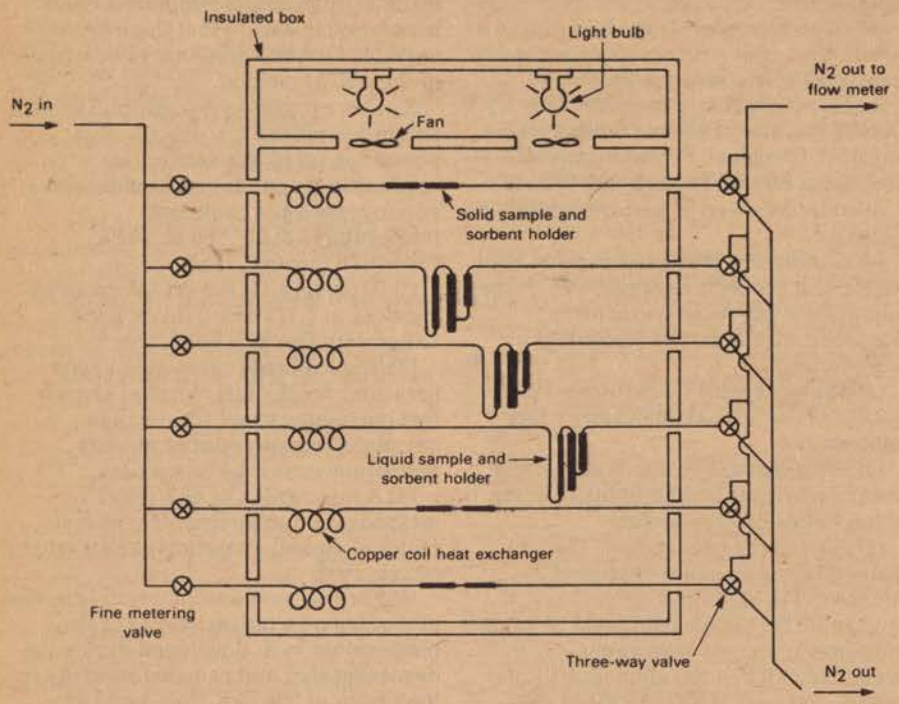
(6) The average calculated vapor pressure at each temperature must include the calculated standard deviation.

(7) A description of any difficulties experienced or any other pertinent information should be provided.

(g) *Gas saturation procedure for vapor pressure.* The gas saturation procedure is based on methodology currently being developed by SRI International under contract to the Environmental Protection Agency (EPA Contract No. 68–01–5117).

(1) The test procedures require the use of a constant-temperature box as in the following Figure 1.

FIGURE 1 - SCHEMATIC DIAGRAM OF VAPOR SATURATION APPARATUS



The insulated box, containing sample holders, may be of any suitable size and shape. The sketch in Figure 1 shows a box containing three solid sample holders and three liquid sample holders, which allows for the triplicate analysis of either a solid or liquid sample. Temperatures within the box must be controllable to ±0.5° or better. Nitrogen gas, split into six streams and controlled by fine needle valves (approximately 0.79 mm orifice), flows into the box via 3.8 mm (0.125 in.) i.d. copper tubing. After temperature equilibration, the gas flows through the sample and the sorbent trap and exits from the box. The flow rate of the effluent carrier gas is measured at room temperature with a bubble meter or other suitable device. The flow rate must be checked frequently during the experiment to assure that there is an accurate value for the total volume of carrier gas. The flow rate is used to calculate the total volume (at room temperature) of gas that has passed through the sample and sorbent (vol/time x time= volume). The vapor pressure of the test substance can be calculated from the total gas volume and the mass of sample vaporized. If v is the volume of gas that transported mass w of the vaporized test material having a molecular weight M, and if p is the equilibrium vapor pressure of the sample at temperature T, then p is calculated by the equation:

$$p = (w/M)(RT/v)$$

In the equation, R is the gas constant (8.31 Pa $m^3 mol^{-1} K^{-1}$). The pressure is expressed in pascals (Pa), the volume in cubic meters (m^3), mass in grams and T in kelvins (K). $T = 273.15 + t$, if t is measured in degrees Celsius (°C).

(2) Solid samples are loaded into 5-mm i.d. glass tubing between glass wool plugs. The following Figure 2 is a drawing of a sample holder and absorber system.

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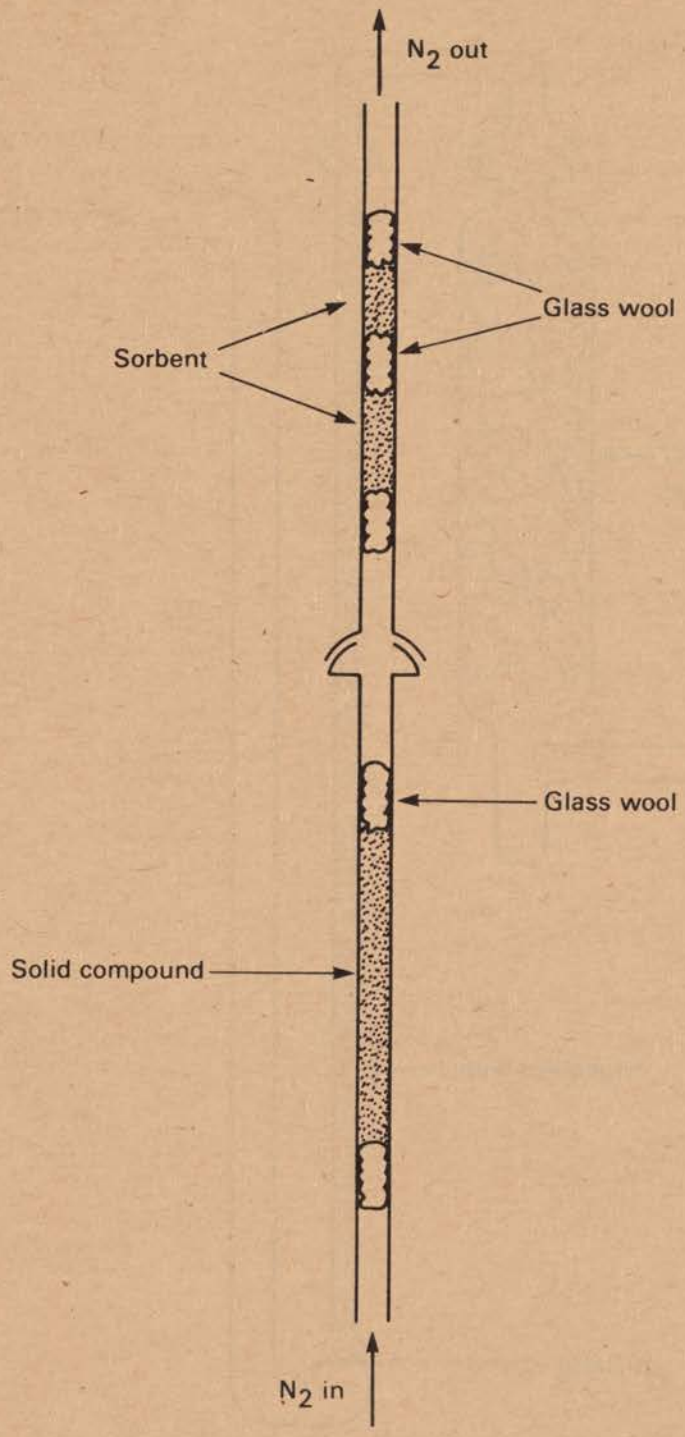
FIGURE 2 - SOLID COMPOUND SAMPLING SYSTEM



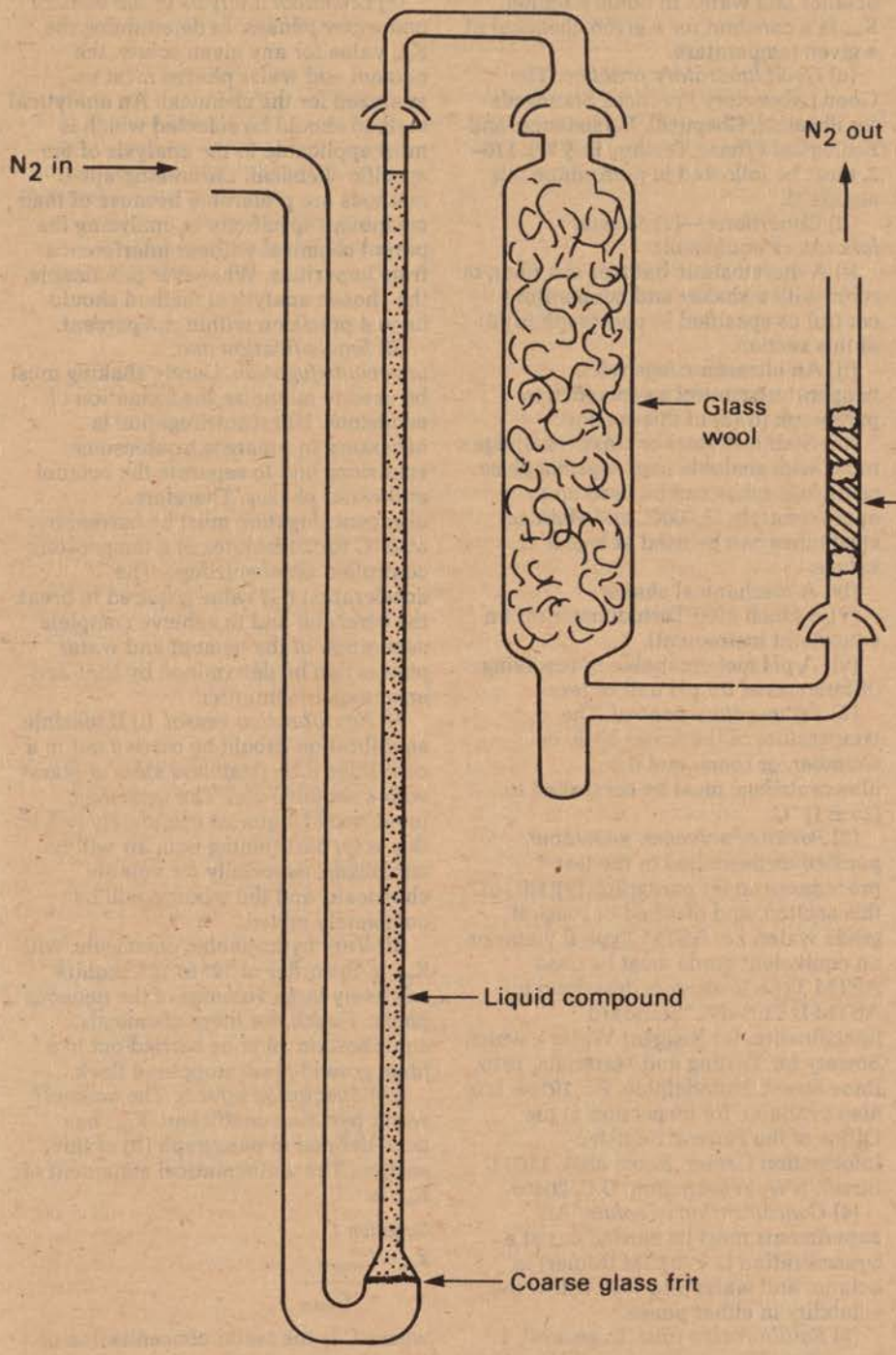
BILLING CODE 6560-31-C

Sample length is about 50 mm. The sample tube is connected by a ground-glass ball-and-socket joint to a similar tube containing the sorbent. The sorbent tube contains two sections of sorbent material (front and backup) separated by glass wool. The sections are approximately 15 mm and 10 mm long, respectively. The backup section is used to check for compound release from the front section.

(3) Liquid samples are contained in a holder as shown in the following Figure 3:

BILLING CODE 6560-31-M

FIGURE 3 — LIQUID COMPOUND SAMPLING SYSTEM



BILLING CODE 6560-31-C

Incoming nitrogen gas (containing no interfering impurities) passes through a coarse frit and bubbles through a 38 cm column of liquid sample. The stream passes through a glass wool column to trap aerosols and then through a sorbent tube, as described above. The pressure drops across the glass wool column and the sorbent tube are negligible.

(4) With both solid and liquid samples, at the end of the sampling time, the front and backup sorbent sections are analyzed separately. The compound on each section is desorbed by adding the sorbent from that section to 1.0 ml of desorption solvent in a small vial and allowing the mixture to stand at a suitable temperature until no more test compound desorbs. The desorption solvent must contain no impurities which would interfere with the analytical method of choice. The resulting solutions are analyzed quantitatively by a suitable analytical method to determine the weight of sample desorbed from each section. The choice of the analytical method, sorbent, and desorption solvent is dictated by the nature of the test material. Commonly used sorbents include charcoal, Tenax GC, and XAD–2. The sorbent, desorption solvent, and analytical methods employed must be described in detail.

(5) The desorption efficiency must be measured for every combination of sample, sorbent, and solvent used. The desorption efficiency is determined by injecting a known mass of sample onto a sorbent and later desorbing it and analyzing for the mass recovered. For each combination of sample, sorbent, and solvent used, the determination must be made in triplicate at each of three concentrations. Desorption efficiency may vary with the concentration of the actual sample and it is important to measure the efficiency at or near the concentration of sample under gas saturation test procedure conditions.

(6) To assure that the gas is indeed saturated with test compound vapor, each compound must be sampled at three differing gas flow rates. Appropriate flow rates will depend on the test compound and test temperature. If the calculated vapor pressure shows no dependence on flow rate, then the gas is assumed to be saturated.

§ 772.122–4 Octanol/water partition coefficient

(a) *Purpose.* This standard is designed to develop values of octanol/water partition coefficient of chemical substances and mixtures. The EPA will use the numerical values of the octanol/water partition coefficient obtained to help assess environmental fate, health, and environmental effects of chemical substances.

(b) *Definition.* "Octanol/water partition coefficient" (K_{ow}) is defined as the equilibrium ratio of the molar concentrations of a chemical in n-octanol and water, in dilute solution. K_{ow} is a constant for a given chemical at a given temperature.

(c) *Good laboratory practice.* The Good Laboratory Practices Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.*—(1) *Special laboratory equipment.*

(i) A thermostatic bath, or chamber, or room with a shaker and temperature control as specified in paragraph (d)(2) of this section.

(ii) An ultracentrifuge with temperature control as specified in paragraph (d)(2) of this section.

(iii) Stainless steel or glass centrifuge tubes with sealable caps. Special glass centrifuge tubes can be used up to approximately 12,000G, and stainless steel tubes can be used at higher G values.

(iv) A mechanical shaker.

(v) A Hach 2100 Turbidimeter (or an equivalent instrument).

(vi) A pH meter capable of resolving differences of 0.1 pH unit or less.

(2) *Temperature control.* The temperature of the water bath, or chamber, or room, and the ultracentrifuge must be controlled to (25 ± 1) °C.

(3) *Purity of solvents. n*-Octanol, purified as described in the test procedures under paragraph (g)(1)(i) of this section, and distilled or reagent grade water, i.e. ASTM Type II water or an equivalent grade must be used. ASTM Type II water is described in ASTM D 1193–77, "Standard Specification for Reagent Water", which Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW, Washington, D.C. 20408.

(4) *Concentration of solute.* All experiments must be carried out at a concentration $C < 0.01M$ (Molar) in octanol and water and well below the solubility in either phase.

(5) *Equilibration time.* In general, 1 hour of gentle agitation is sufficient to reach equilibrium. For surfactants, at least 16 hours is required to reach equilibrium.

(6) *Octanol/water volume ratio.* The ratio of the volumes of the two liquids must be adjusted as appropriate for the relative solubility of the chemical in octanol and water. By adjusting the volumes, concentration errors (resulting from analytical errors) are minimized and errors resulting from dividing large numbers by small numbers are kept to a minimum.

(7) *Chemical analysis of the octanol and water phases.* In determining the K_{ow} value for any given solute, the octanol and water phases must be analyzed for the chemical. An analytical method should be selected which is most applicable to the analysis of the specific chemical. Chromatographic methods are preferable because of their compound specificity in analyzing the parent chemical without interference from impurities. Whenever practicable, the chosen analytical method should have a precision within ±5 percent.

(8) *Emulsification and ultracentrifugation.* Gentle shaking must be used to minimize the formation of emulsions. Ultracentrifugation is necessary to separate troublesome emulsions and to separate the octanol and water phases. Therefore, ultracentrifugation must be carried out at 25°C for 20 minutes in a temperature controlled ultracentrifuge. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases can be determined by trial-and-error experimentation.

(9) *Equilibration vessel.* (i) If feasible, equilibration should be carried out in a centrifuge tube (stainless steel or glass) with a sealable cap. The centrifuge tubes must be almost completely full. In this way, partitioning with air will be minimized, especially for volatile chemicals, and the mixture will be completely mixed.

(ii) Very hydrophobic chemicals, with K_{ow} in the order of 10^4 to 10^6, require relatively large volumes of the aqueous phase. Hence, for these chemicals, equilibration must be carried out in a large ground-glass stoppered flask.

(10) *Speciation effects.* The octanol/water partition coefficient, K_{ow}, has been defined in paragraph (b) of this section. The mathematical statement of K_{ow} is:

Equation 1

$$K_{ow} = \frac{C_{octanol}}{C_{water}}$$

where C is the molar concentration of the solute in octanol and water at equilibrium at a given temperature.

(i) If the chemical does not associate or dissociate in octanol and water, then equation (1) must be used and K_{ow} must be determined at molar concentrations $C < 0.01M$ and $C_1 = 0.01C$.

(ii) If the chemical associates in octanol or water or in both liquids, then equation (1) must be used and K_{ow} must be determined at molar concentrations $C < 0.01M$, $C_1 = 0.1C$, $C_2 = 0.01C$, $C_3 = 0.001C$. . . . . When K_{ow} is constant at two molar concentrations differing by a factor of 10, then the effect of association has been minimized or eliminated.

(iii) If a molecule dissociates or associates in octanol and water, then equation (1) must be modified to take into account such speciation changes as ionization, aggregation, and hydration. For the special case where no association takes place in octanol and only dissociation takes place in water, equation (1) becomes:

Equation 2

$$K_{ow} = \frac{C_{octanol}}{(1 - \alpha_{water})(C_{water})}$$

where α represents the degree of dissociation in water. For chemicals which reversibly ionize or protonate (e.g., carboxylic acids, phenols, or anilines), equation (2) must be used with water buffered at pH 5.0, 7.0, and 9.0. Buffers described in the test procedures under paragraph (g)(1)(ii) of this section must be used.

(11) *Prerinsing of all transfer vessels.* All transfer vessels must be prerinsed with a portion of the equilorium aqueous phase prior to transfer for analysis.

(e) *Procedures.* The test conditions outlined in paragraph (d) of this section must be followed in carrying out all octanol/water partition coefficient experiments. Recommended procedures are given in the test procedures under paragraph (g) of this section.

(f) *Reporting.* In addition to the following requirements, information specified in § 772.110–2(h) of Good Laboratory Practice Standards must be reported. This test standard is designed to determine the octanol/water partition coefficient of the test chemical in the range 10 to 10^6. For chemicals outside this range, the octanol/water partition coefficient should be reported as $K_{ow} < 10$ or $K_{ow} > 10^6$ with no further quantification.

(1) *Specific analytical and recovery procedures.* (i) Provide a detailed description or reference for the analytical procedure used, including the calibration data and precision.

(ii) If extraction methods were used to separate the solute from the octanol and aqueous phases, provide a description of the extraction method and recovery data.

(iii) Report the experimental (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases.

(2) *Test data.* For each individual determination, report the octanol/water partition coefficient at each concentration of the test substance, including the molar concentration of chemical in each phase [C_{oct} and C_{water}]. In addition, report the mean value of K_{ow}, and the standard deviation.

(g) *Test procedures*—(1) *Reagents and solutions.* (i) *Octanol and water.* Very pure *n*-Octanol can be obtained as follows: Wash pure *n*-octanol (minimum 98 percent pure) sequentially with 0.1N H_2SO_4, with 0.1N NaOH, then with distilled water until neutral. Dry the *n*-octanol with magnesium sulfate and distill twice in a good distillation column under reduced pressure [b.p. about 80°C at 0.27 kPa (2 torr)]. The octanol produced must be at least 99.9 percent pure, e.g., a grade equivalent to Fisher Scientific Co. No. A–402 "Certified Octanol-1". Distilled or reagent grade (ASTM Type II) water must be used.

(ii) *Buffer solutions.* Prepare buffer solutions using reagent grade chemicals in distilled or reagent grade water as follows:

pH 5.0—250 mL of 0.1M potassium hydrogen phthalate; 113 mL of 0.1M sodium hydroxide. Adjust final volume to 500 mL with reagent grade water.

pH 7.0—250 mL of 0.1M potassium dihydrogen phosphate; 145 mL of 0.1M sodium hydroxide. Adjust final volume to 500 mL with reagent grade water.

pH 9.0—250 mL of 0.075M borax; 69 mL of 0.1M HCl. Adjust final volume to 500 mL with reagent grade water.

Check the pH of each buffer solution with a pH meter at 25°C and adjust to pH 5.0, 7.0, or 9.0, if necessary.

(iii) *Presaturation of the solvents.* Before a partitioning experiment is carried out, prepare octanol saturated with water and water saturated with octanol. Add purified *n*-octanol to a large stock bottle and sufficient distilled water to saturate it. Shake the flask for 24 hours on a mechanical shaker. Then allow sufficient time for the mixture to stand so that the two phases separate. Repeat this procedure using another large stock bottle containing distilled water and sufficient octanol to saturate it. The desired quantities of the presaturated solvents can be taken from these stock bottles for each partition experiment.

(iv) *Preparation of test solution.* Prepare a solution of the test material in octranol at a molar concentration of 10^{-2} to 10^{-3}M.

(2) *Procedure.* (i) Add a small volume of the octanol test solution (1 to 5 mL) to a centrifuge tube with a sealable cap as described under paragraph (d)(9) of this section.

(ii) The volume of water required is variable, depending upon the amount of chemical required for chemical analysis. Generally, 20–40 mL of water should be sufficient. Add the required volume of water to the centrifuge tube as described under paragraph (d)(6) of this section. Make sure that the centrifuge tube is almost completely full. In this way, partitioning with air will be minimized. This is important, especially when determining K_{ow} for volatile chemicals.

(iii) Equilibrate the samples at 25°C in a constant temperature bath, or chamber, or room by gently shaking the centrifuge tube for 1 hour. Avoid vigorous shaking which may cause troublesome emulsions to form. For surfactants, a minimum of 16 hours of shaking is required as described in paragraph (d)(5) of this section.

(iv) Centrifuge the samples at 25°C for 20 minutes to break any emulsion and to separate the octanol and water phases. Evidence for breaking the emulsion and separation of the water and octanol phases can be obtained using a turbidimeter. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases can be determined by trial-and-error experimentation.

(v) Sample the octanol and water phases as follows:

(A) Withdraw by pipet a known volume of the octanol phase (approximately 1/2 or less of the total octanol phase) and transfer to an analysis cell or diluting solvent. Before transferring the aliquot of the octanol phase, wipe the outside of the pipet with a paper tissue.

(B) Remove by pipet the remainder of the octanol phase including the interfacial layer and discard.

(C) Insert another clean pipet close to the bottom of the centrifuge tube and carefully withdraw a known volume of the aqueous phase. Wipe the bottom exterior part of the pipet with a tissue and discharge the aqueous sample directly into an analysis cell or extraction solvent. Do not allow the extraction solvent to contact the pipet stem.

(vi) Select an analytical method which is most applicable to the analysis of the specific chemical as described in paragraph (d)(7) of this section. Determine the concentration in the octanol and water phases. Express the concentration of the chemical in octanol and water in moles/liter (M).

(vii) Determine the partition coefficient in triplicate (Steps i through vii) at two concentrations of the test material C < 0.01M and C_1 = 0.1C as described in paragraph (d)(10)(i) of this section. If K_{ow} is not constant at C and C_1 then association effects should be considered. Therefore, follow steps i through vii at lower concentrations until K_{ow} is constant at two concentrations differing by a factor of 10 as described in paragraph (d)(10)(ii) of this section.

(viii) Very hydrophobic chemicals (with K_{ow} on the order of 10^4 to 10^6) require relatively large volumes of the aqueous phase as described in paragraph (d)(6) and (9)(ii) of this section. Hence, for very hydrophobic materials, equilibrate the octanol and water phases in a large ground-glass stoppered flask as described in step iii. For the final phase separation, transfer the two phase mixture to centrifuge tubes that have been prerinsed with some of the aqueous phase, centrifuge as described in step iv, withdraw aliquots from each centrifuge tube as described in step v, and recombine for analysis. Note: Prerinse all transfer tubes with the water phase. Complete steps vi and vii to determine K_{ow}

(ix) For materials which reversibly ionize or protonate, determine K_{ow} at pH 5.0, 7.0, and 9.0 as described in paragraph (d)(10) (ii) of this section. Follow steps i through vii using the buffered aqueous solutions described in paragraph (g)(1)(ii) of this section. Using the acid dissociation constant and the concentration of the chemical in the aqueous phase [C_{water}], the term α can be calculated. The concentration of undissociated chemical can be determined from α and C_{water}.

§ 772.122–5 Soil thin-layer chromatography.

(a) *Purpose.* This standard is designed to develop soil leaching data on chemical substances at an environmentally relevant temperature. The EPA will use these data to evaluate adsorption and desorption of chemicals in the environment.

(b) *Definitions.* (1) "Cation exchange capacity" (CEC) is the sum total of exchangeable cations that a soil can adsorb; expressed in milliequivalents per 100 grams or milliequivalents per gram of soil.

(2) "Particle size analysis" is the determination of the various amounts of the different particle sizes in a soil sample (i.e., sand, silt, clay) usually by sedimentation, sieving, micrometry or combinations of these methods. The names and size limits of these particles as widely used in the United States are:

Very coarse sand—2.0 to 1.0 mm dia
Coarse sand—1.0 to 0.5 mm
Medium sand—0.5 to 0.25 mm
Fine sand—0.25 to 0.125 mm
Very fine sand—0.125 to 0.062 mm
Silt—0.062 to 0.002 mm
Clay—<0.002 mm

(3) "R_f" is the furthest distance traveled by a test material on a thin-layer chromatography plate divided by the distance traveled by a solvent front (arbitrarily) set at 10.0 cm in soil TLC studies).

(4) "Soil" is the unconsolidated mineral material on the immediate surface of the earth that serves as a natural medium for the growth of land plants, and has been subjected to and influenced by various factors such as parent material, climate, macro- and microorganisms, topography, and time.

(5) "Soil aggregate" is the combination or arrangement of soil separates (sand, silt, clay) into secondary units. These units may be arranged in the profile in a distinctive characteristic pattern and can be classified on the basis of size, shape, and degree of distinctness into classes, types, and grades.

(6) "Soil classification" is the systematic arrangement of soils into groups or categories on the basis of their characteristics; broad groupings are made on the basis of general characteristics and subdivisions on the basis of more detailed differences in specific properties. The soil classification system used today in the United Stats is the 7th Approximation-Comprehensive System.

(7) "Soil horizon" is a layer of soil or soil material approximately parallel to the land surface and differing from adjacent layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistency, kinds, and numbers of organisms present, degree of acidity or alkalinity, and various other properties.

(8) "Soil order" is the broadest category of soil classification based on general similarities of physical/chemical properties resulting from formation by similar general genetic processes.

(9) "Soil organic matter" is the organic fraction of the soil; it includes plant and animal residues at various stages of decomposition, cells and tissues of soil organisms, and substances synthesized by the soil population.

(10) "Soil pH" is the negative logarithm to the base 10 of the hydrogen ion activity of a soil as determined by means of a suitable sensing electrode coupled with a suitable reference electrode at a 1 : 1 soil : water ratio.

(11) "Soil series" is the basic unit of soil classification. It is a subdivision of a family, and it consists of soils which are essentially alike in all major profile characteristics except the texture of the "A" horizon.

(12) "Soil texture" refers to the classification of soils based on the relative proportions of the various soil separates present (i.e., clay, sandy clay, silty clay, clay loam, silty clay loam, sandy clay loam, loam, silt loam, silt, sandy loam, loamy sand, sand).

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.* (1) The number and type of soils to be used will be specified in the Test Rule.

(2) Equipment required: Distilled-deionized water adjusted to pH 7 by boiling to remove CO_2; clean glass plates (TLC); glass rods or a variable thickness plate spreader; masking tape; closed chromatographic chambers; analytical instrumentation necessary and appropriate for the detection and quantitative analysis of the test chemical.

(3) The test procedure may be run at 23 ± 5°C.

(4) Only gentle crushing and grinding of the air dried soil must be employed to reduce aggregate size before or during sieving.

(e) *Procedures.* (1) First, air dried soils must be sieved at 250 micrometers.

(2) Water must be added to the sieved soil until a smooth, moderately fluid slurry is attained (approximately ¾ ml H_2O added for each gram of soil).

(3) The soil slurry must be evenly and quickly spread across the clean glass plate by use of a variable thickness plate spreader, use of a glass rod, or other available methods. If a glass rod is used, layer thickness must be controlled by affixing multiple layers of masking tape along the plate edges. Soil layer thickness must be 500–750 micrometers.

(4) The plates must be air dried at 25°C for a minimum of 24 hours after uniform slurry application is achieved.

(5) A horizontal line must be scribed 11.5 cm above the base through the soil layer down to the glass so as to stop solvent movement.

(6) The test chemical must then be spotted at 1.5 cm above the base. For radiolabeled materials 0.5–5 μg

containing 0.01–0.03 μCi of 14_C labeled compound may be used.

(7) At least three replicate plates must be used for each soil.

(8) If the compound is volatile, a clean plate must be placed over the soil TLC plate to impede volatilization.

(9) The plate must be immersed base down at some angle from the vertical in a closed chromatographic chamber containing H_2O at a height of 0.5 cm.

(10) The solvent front must migrate to the 11.5 cm line before the plates are removed from the chamber.

(11) R_f values must be determined. Zonal extraction, plate scanning, or any other method or combination of methods suitable for detection of the parent test chemical may be used.

(12) A mass balance for the parent test chemical must be performed by determining the amount of the parent test chemical on the entire soil TLC plate after test chemical migration. Any method or combination of methods suitable for the extraction and quantitative detection of the parent test chemical may be used.

(f) *Reporting.* Information specified in § 772.110–2(h) of the Good Laboratory Practice Standards must be reported. Also, the following information must be reported using the following Figures 1 and 2:

FIGURE 1 - SOIL TLC DATA FORMAT

SOIL:

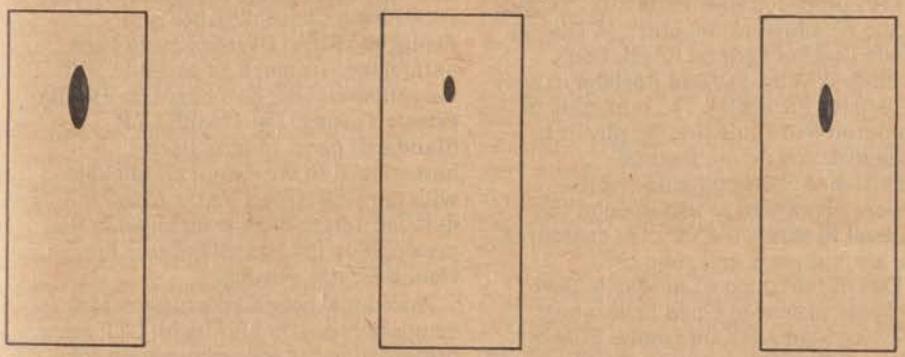


PLATE 1 PLATE 2 PLATE 3

QUANTITY	PLATE 1	PLATE 2	PLATE 3
R_f			
Amount Applied			
Amount Recovered			
% Recovered			
Mean R_f			
Standard Deviation			

Figure 2.—*Soil physical, chemical, and classification data format*

	Soil 1	Soil 2
Soil order	Alfisol	
Soil series	Crider	
Soil texture	Silt loam	
Location	Gallatin County, IL	
Horizon	A	
Percent sand	1.2	
Percent silt	86.6	
Percent clay	12.2	
Percent organic matter	1.74	
pH (1:1 H_2O)	7.20	
CEC (MEQ/100GMS)	13.5	
Clay fraction mineralogy	75 percent montmorillonite; 5 to 20 percent, mica; 5 percent, kaolinite (36 to 120 cm depth).	

(1) temperature at which the test was conducted, (2) amount of the test chemical applied and amount recovered from the plates, (3) detailed description of the analytical technique used in the R_f determination, the chemical extraction, and the quantitative recovery and analysis of the parent chemical; (4) the mean frontal R_f value with the standard deviation for each soil tested; (5) a photograph or diagram of the TLC plate which shows the entire leaching pattern (from 1.5 to 11.5 cm); (6) soil information: soil order, series, texture, sampling location, horizon, general clay fraction mineralogy; and (7) soil physical-chemical properties: percent sand, percent silt and percent clay (particle size analysis); percent organic matter; pH (1:1 H_2O); and cation exchange capacity.

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40 CFR Part 772

[OPTS-46004A; TSH FRL 1594-4]

Physical, Chemical, Persistence, and Ecological Effects Testing; Proposed Good Laboratory Practice Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes good laboratory practice (GLP) standards for the development of data on physical, chemical, persistence, and ecological effects fo chemical substances for which EPA will require testing under section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C., 2601, et seq.). These proposed standards supplement "Good Laboratory Practice Standards and Health Effects," proposed on May 9, 1979 (44 FR 27362). The good laboratory practice standards include general standards that apply to all laboratory testing for physical, chemical,

persistence, and ecological effects under section 4 of TSCA. When these proposed good laboratory practice standards are made final, they will be included as requirements, where appropriate, in testing rules promulgated for specific chemicals. Compliance with these standards will assure the reliability and adequacy of data submitted pursuant to testing rules promulgatged under section 4.

DATES: Written comments should be submitted on or before January 21, 1981. Oral comment will be received on February 10, 1981. See Supplementary Information for public meeting information.

ADDRESS: Written views and comments should bear the EPA document control number OPTS–46004A and should be submitted to: Document Control Officer, (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office, (TS–799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–427, 401 M St., SW., Washington, D.C. 20460, (800–424–9065), In Washington, D.C.: (554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 4(b) of TSCA (90 Stat. 2003, et seq., 15 U.S.C., 2601 et seq.), EPA is preparing proposals for standards for the development of test data. These data are to be used to determine if particular chemicals present, or do not present, unreasonable risks to health or the environment. The proposal consists of this notice, a separate notice titled, "Proposed environmental effects test standards for Toxic Substances Act test rules—Physical, chemical, and environmental persistence characteristics," which appears elsewhere in this copy of the **Federal Register**, and previously proposed test standards published in the **Federal Register** of May 9, 1979 (44 FR 27334), and July 26, 1979 (44 FR 44054).

In this notice, EPA is proposing general Good Laboratory Practice (GLP) Standards for Physical, Chemical, Persistence, and Ecological Effects Testing. These GLP Standards are designed to assure the reliability and adequacy of data submitted, and are issued to supplement previously proposed GLP Standards for Health Effects (44 FR 27362) issued on May 9, 1979. These practices are proposed to apply generally to all testing for physical, chemical, persistence, and ecological effects conducted under section 4 of TSCA, by or on behalf of manufacturers or processors of chemical substances or mixtures.

Separate GLP standards for health effects testing and physical, chemical, persistence, and ecological effects testing are necessary for a number of reasons. Testing to be conducted in accordance with proposed health effects standards is primarily concerned with effects on a limited number of animal species. It does not address the analytical problems associated with physical, chemical, and persistence testing nor does it address the special problems associated with the wide variety of vertebrates, invertebrates, and plant species covered in ecological effects testing.

While these GLP Standards will apply generally to all prescribed tests for physical, chemical, persistence, and ecological effects, individual tests may contain specific GLP instructions that apply to that particular test.

II. Previously Proposed Good Laboratory Practice Standards for Health Effects

EPA proposed new Parts 770, 771, and 772 to be added to Chapter I of Title 40 of the Code of Federal Regulations, published in the **Federal Register** of May 9, 1979 (44 FR 27335). The preamble to proposed test standards for physical, chemical, and environmental persistence characteristics, which appear elsewhere in this issue of the **Federal Register**, outlines the content of the several parts and subparts.

Part of the proposal of May 9, 1979, included proposed Good Laboratory Practice Standards for Health Effects (frequently cited simply as "Health GLP") (44 FR 27362) for inclusion in 40 CFR 772.110–1. Proposed GLP Standards for Physical, Chemical, and Environmental Persistence Characteristics and Ecological Effects Testing presented here are for inclusion as § 772.110–2, in the same part and subpart identified for the Health GLP.

Preamble discussions of the authority and need for GLP Standards as they apply to testing for health effects are, in general, equally applicable to these proposed standards. Problems with the adequacy of testing data were identified by the Food and Drug Administration (FDA) in the mid 1970's and were reported to the Senate Subcommittee on Health (Committee on Labor and Public Welfare). FDA's inspections of several pharmaceutical houses and contract laboratories found unacceptable laboratory practices that, in turn, called into question the validity of test data submitted. Unacceptable practices included selective reporting and underreporting of results, lack of adherence to specified protocols, inadequate qualification and supervision of personnel, poor animal care procedures, poor recordkeeping techniques, and the general failure of sponsors to monitor studies. Later inspections and audits done jointly by FDA and EPA also indicated that testing facilities do not always follow good laboratory practices.

III. Proposed Good Laboratory Practice Standards

These proposed GLP Standards prescribe methodology for the selection, handling, and storage of the test substance; personnel qualifications, and the organization of the testing laboratory; minimal facilities; equipment specifications; operation of the testing facilities; requirements for a study plan and the conduct of a study; requirements for recordkeeping and reports; and specific appendices applicable to testing for physical, chemical, and persistence characteristics and to testing for ecological effects. Proposed GLP Standards for Physical, Chemical, and Persistence Characteristics and Ecological Effects Testing have been harmonized as much as possible with the proposed GLP Standards for Health Effects Testing. The Health GLP Standards have, in turn, been harmonized to the extent practicable with the GLP issued by the FDA. A detailed comparison is included in the preamble to the GLP Standards for Health Effects Testing.

Additional general discussion and comparisons with the Health GLP are presented in the following paragraphs and concentrate on differences between the Health and Environmental GLP Standards.

(a) *Introduction.* Statements of the authority, purpose, and scope of GLP Standards proposed here are similar to the authority and purpose stated for GLP Standards for Health. These GLP Standards for Physical, Chemical, and Persistence, and Ecological Effects Testing are consistent with the guidance for GLP issued by several professional societies and EPA program offices.

Definitions incorporated in these GLP Standards include several terms not included in the GLP Standards for Health, mainly because environmental testing covers different types of testing. Also, a few of the definitions are made broader, such as "testing facility," which will cover laboratories which perform a wider variety of testing, with different methods and test species, than do laboratories that do health testing.

(b) *Testing and control substances.* Requirements for documenting the purity of the test substance and for minimizing contamination or alteration during storage and handling are intended to assure consistency of testing results. The language of these proposed Standards differ slightly from the language in the Health GLP, but essentially the requirements on the testing laboratory are the same.

(c) *Organization and personnel.* This section of the standard is to assure that laboratories doing testing are staffed by personnel who are competent to do the testing, that the staff and laboratory are organized in a manner that is likely to lead to proper conduct of the tests, and that the laboratory has a suitable organization, staff, and procedures to implement good quality assurance. There are several small differences between requirements in this section and requirements in the Health GLP Standards. These GLP Standards, for example, require that the quality assurance unit monitor all work but it only recommends, not requires, that the unit be separate and independent from those conducting the work. This was made a recommendation in order to allow small laboratories with limited staffs some flexibility in conforming with this provision of the GLP Standards. These GLP Standards also require development of a quality assurance plan prior to starting of testing, not as testing proceeds, in order to make the plan available for Agency review at any time. These Standards also require maintaining a master schedule of all testing in order to provide an indication of total work load and allow evaluation of whether testing was done under overloaded conditions.

(d) *Facilities.* Requirements for facilities in this GLP Standard are considerably shorter than the requirements in the GLP Standards for Health because the Health GLP includes detailed standards for facilities for animals. This would be impractical to include in these Standards since such a wide variety of species are included in ecological effects testing standards. Therefore, specific requirements for facilities for testing for environmental effects using animals are proposed in § 772.110–4 of these proposed GLP Standards and in specific GLP sections of some individual test standards.

(e) *Equipment.* Standards are proposd in this section to assure that equipment in testing laboratories is properly designed and adequately maintained so that reliable data can be collected. In addition, the standards require that records be maintained of equipment inspection, maintenance, testing, calibration, standardization, failure, malfunction, and repair.

(f) *Testing facilities operation.* To assure consistent, high-quality data, testing laboratories are to have written standard operating procedures and adequate manuals and records also are to be maintained. The language of standards proposed in this section differs slightly from language in the health GLP in order to allow for different types of facilities needed for physical, chemical, persistence, and ecological testing. In addition to the GLP requirements for facilities in § 772.110–2(f), there also are requirements for special facilities for ecological effects testing outlined in § 772.110–4 of these proposed GLP Standards. Additional requirements for facilities also many be outlined in standards for individual tests because they are test specific.

(g) *Study plan and conduct of a study.* This section of the GLP Standard is to assure that tests of chemical substances are planned carefully, and then are carried out in accordance with the plan, or otherwise that deviations are documented. The wording of this section differs only slightly from that in the corresponding section of the Health GLP in order to allow for differences in the types of tests to which they apply. In addition, this GLP requires information on chemical stability which EPA regards as important in planning long-term tests or other types of test in which transformation of the chemical may affect results.

(h) *Records and reports.* Final reports from the testing of chemicals must be complete in order to permit EPA and the test sponsor to judge adequacy and reliability of data to be used in assessing the potential fate of or environmental hazard from a substance. Differences from the Health GLP are minor; one difference is that this Environmental GLP requires reporting of quality-assurance methods used in testing–a factor which EPA counts as important in judging acceptability of testing.

(i) *Physical, chemical, and persistence testing.* Testing for physical, chemical, and persistence characteristics has several specific GLP requirements above and beyond the requirements proposed in the main portion of these GLP Standards. These special requirements are detailed in § 772.110–3, and deal with special qualifications and training for personnel, and with special requirements for the testing laboratory. Persons who perform tests for physical, chemical, and persistence characteristics of chemicals need to have training and/or experience in chemistry, biology, microbiology, or closely related areas. Laboratories must have adequate space for a variety of specialized equipment. Special requirements are proposed to protect laboratory personnel from potentially dangerous exposure to sewage during certain microbiological tests.

(j) *Ecological effects testing.* Testing for ecological effects of chemical substances generally involves the exposure of a wide variety of plants and animals of chemical substances and mixtures. Consequently, there are many special GLP requirements that apply to the personnel, facilities, operation, planning and conduct, and reporting of ecological effects testing. These special GLP requirements are detailed in § 772.110–4 of this GLP Standard.

(1) *Personnel.* Several diseases and infections that affect people also may present a threat to the organisms involved in testing for ecological effects of chemical substances. Consequently, all illnesses of laboratory personnel are to be reported and infected persons who may affect the testing are to be excluded from contacting the test organisms.

Most testing of chemicals using fish, birds, other animals, or plants requires first the availability of organisms, and then their maintenance in often delicate cultures. It also may involve sophisticated analytical chemistry techniques as well as pathological examination. EPA, therefore, in these GLP Standards requires that the tests be conducted by personnel with sufficient training and/or experience in appropriate specialty areas such as biology, veterinary science, pathology, analytical chemistry, fisheries biology, and other specialty areas. In addition to the special requirements contained in § 772.110–4, some of the test standards for ecological testing also contain additional personnel requirements.

(2) *Facilities.* Testing of chemicals for ecological effects is likely to involve work with a large number of different types of plants and animals. Laboratories doing the testing must, therefore, have adequate facilities to care for the different test species, to avoid mixup, and to provide that the several different types of tests do not interfere with each other. Proposed GLP Standards in § 772.110–4, applicable to ecological effects testing, are intended to guard against such types of problems. Reference is made to general provisions to the Animal Welfare Act and to other general standards for the care and testing of animals (including fish). The standards require adequate rooms for separation of species and tests where interferences may result, but they do not require categorical separation of all

species or of all different types of tests. Separate spaces are required for certain aseptic procedures, for cleaning and maintenance of equipment, and for facilities for personnel such as lockers, showers, toilets, and washing areas.

(3) *Testing facilities operation.* Section 772.110–4 outlines the requirements for standard operating procedures for the handling of organisms, and includes specific paragraphs on special aspects of care for and handling of organisms. These special GLP provisions are intended to assure that testing is done with strong, healthy organisms, and that the test results are not affected by mix-up or by damage from poor handling or extraneous factors

(4) *Study plan and conduct of a study.* In addition to general requirements for a study plan and conduct of testing outlined in § 772.110–2(g) of these GLP Standards, § 772.110–4(e) provides for specific requirements for testing for ecological effects. The study plan needs to consider how test organisms are selected, as well as their indentification, feeding, and methods of dosing with the test chemical. This § 772.110–4(e) also requires specific indentification of test organisms and identification of gross findings by a pathologist doing a histopathological examination.

(5) *Reporting of the study results.* Reports of ecological effects testing are to include specific details on the numbers and types of test organisms, and on the chemical dosages adminsitered and the manner in which they were administered.

(k) *Inspection of testing facility.* The Agency will conduct inspections of testing facilities and audits of data developed by those facilities if the testing was, or is being done in support of TSCA regulations according to Part 772, Subparts L, M, or N.

IV. Economic Analysis

These GLP standards are very similar to FDA's Good Laboratory Practice Regulations for Nonclinical Laboratory Studies which became law on June 20, 1979. By now, after several years of industry-wide discussion and development of the FDA GLP's and after one year of actual enforcement, regulations have already impacted the cost of performing animal toxicity studies. Thus, it is conceivable that the proposed EPA GLP environmental standards will have little or no further impact on testing costs in laboratories which conduct both health effects and environmental effects testing. In addition, many of the laboratories that do environmental testing already adhere to similar GLP requirements issued by EPA program offices and several professional societies such as the American Public Health Association (APHA), American Water Works Association (AWWA), the American Society for Testing and Materials (ASTM), and the EPA program offices for water and pesticides.

Due to the fact that Good Laboratory Practice standards are not specific protocols, it is impossible to provide an itemized component cost breakdown. In fact, GLP's represent operational procedures which are designed to affect all methods and tests. Thus, the economic impact of GLP standards can only be measured in terms of their relative impact, e.g., percentage increase, upon the cost of performing any and all tests.

Private estimates from industrial and independent contract testing laboratories secured by EPA contractors have ranged from 10 to 80 percent increase in the cost of testing; the general consensus being that GOP regulations have increased testing costs by an average of 50 percent over pre-GLP prices. Unfortunately, it is impossible at this time to obtain a more accurate estimate of the economic impact of GLP regulations

The following examples demonstrate how GLP standards are actually operational procedures and why it is impossible to calculate an itemized component cost breakdown:

(1) Most laboratories did not have a Quality Assurance Unit (QAU) in early pre-GLP times. Much of the time spent by QAU personnel can be charged as a Direct Labor Cost on a study, but quite often the QA Unit is partially supported by overhead. The impact of this overhead expense depends on the size of the unit, the salaries paid, the size of the laboratory, the relative magnitude of the overhead burden, and the efficiency with which the QAU performs its job.

(2) The preparation of Standard Operating Procedures (SOP) is entirely an overhead expense. It takes management, technical (both senior and junior), and clerical time to write SOP's initially and to continually update them. The use of SOP's does probably increase technical efficiency and minimize training time. The magnitude of these effects depends upon whether or not a laboratory previously had SOP'S.

(3) Other procedures regarding test articles, protocols, record keeping, etc. undoubtedly add additional labor costs to each test. The magnitude of the impact depends upon procedures which were followed before GLP's came into effect.

(4) Other requirements concerning the adequacy and design of facilities; the adequacy, maintenance, and calibration of equipment; and the adequacy, supervision, training, and experience of available technical and management personnel are impossible to describe in terms of economic impact on test costs due to variations in the availability of these resources at each laboratory, both before and after GLP's became law.

EPA will do an economic analysis to estimate the cost of testing for each environmental test standard proposed in Subparts L and M. Each estimate will be made on the assumption that these GLP standards apply, and therefore will include GLP incremental costs in the total cost estimated for each test.

V. Public Record

EPA has established a public record for this rulemaking (document number OPTS–46004A) which along with a complete index is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. (Rm E–447, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information:

(1) USEPA–OPTS. "Proposed Physical, Chemical, Persistence and Ecological Effects Test Standards for Toxic Substance Control Act Test Rules."

(2) USEPA–OPTS. "Proposed Physical, Chemical, Persistence and Ecological Effects Test Standards for Toxic Substance Control Act Test Rules Support Document."

(3) USEPA–OPTS. "Toxic Substances Control Act Premanufacture Testing of New Chemical Substances" (44 FR 16240) and all public comments received on this discussion document.

(4) USEPA–OPTS. "Proposed Good Laboratory Practice Standards for Health Effects" (44 FR 27369 et seq.).

(5) USEPA–OPP. "Proposed Guidelines for Registering Pesticides in the United States" (43 FR 29696–740).

(6) USEPA–OPP. "Guidelines for Registering Pesticides in the United States" (40 FR 26802–928).

(7) Drafts of the proposed rules, the preamble, and the support document which were available for public comment.

(8) Correspondence pertaining to the development of the standards, the preamble, or the support document. (This does not include inter- or intra-agency correspondence, unless specifically noted in the index to the rulemaking record).

(9) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

(10) Scientific papers relevant to issues relating to these tests which were used by the agency in developing this proposal.

(11) Contractor's report, "Cost Analysis Methodology and Protocol Estimates: Environmental Standards," by Enviro Control, Inc., April 28, 1980, 26 p.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional and relevant material for the record at any time between this proposal and the final designation of the rulemaking record, on or before the date of promulgation of these requirements as prescribed by TSCA section 19(a)(3).

VI. Public Meetings

EPA personnel responsible for developing these proposed Environmental Test Standards will be available to meet with interested persons from companies, trade associations, organized labor and citizen organizations on February 10, 1981 at: Skyline Inn, South Capitol & I Streets, SW., Washington, D.C.

The meeting will be from 1 p.m. to 5 p.m. This location is three blocks east of the EPA Headquarters, Waterside Mall, 401 M St., SW., Washington, D.C. Persons who wish to make presentations should request time by contacting the Industry Assistance Office by telephone, either toll free (800–424–9065) or on 554–1404 in Washington. Time will be scheduled between 1 p.m. and 5 p.m. The Agency will make a transcript of the sessions for inclusion in the official public record. Participation in a session will be limited to those who have requested that time to make oral comment.

One purpose of providing this opportunity for oral comment is to provide EPA with information on costs and approaches to compliance for impacted companies, especially small ones. The other purpose of this public meeting is to allow EPA to digest the scope and nature of written comments on scientific and technical points before hearing oral argument or comment on them. The Agency's general criterion for allotting time will be that a person has an interpretation, data or experience that is best presented orally with the opportunity for cross-checking communication with the Agency. In this case, an additional criterion will be that a person has a review of the written commentary already submitted to share with the Agency. EPA's experience has shown that this roundtable format for public meetings by request that are open to the public yields more productive exchanges for both commentators and the Agency. EPA encourages commentators to use the toll free telephone to ask questions of clarification early in the written comment period to aid their formulating their comments.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 4, TSCA, 90 Stat. 2006; 15 U.S.C. 2603)

Dated: September 25, 1980.

Douglas M. Costle,

Administrator.

Therefore, EPA proposes to add new §§ 772 110–2, 772.110–3, and 772.110–4 to Subpart B of Part 772 to read as follows:

§ 772.110–2 Good laboratory practice standards for physical, chemical, persistence, and ecological effects testing.

(a) *Introduction*—(1) *Scope and purpose.* The requirements contained in these standards apply to all testing for chemical, physical, and environmental persistence characteristics, and for ecological effects. Compliance with the standards is intended to assure the quality and integrity of data filed pursuant to section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.). When interpreting specific requirements, the differences between laboratories conducting physical, chemical, and persistence tests and those conducting biological tests should be recognized. Section 772.110–3 of these standards contains special material applicable to physical, chemical, and persistence testing, and § 772.110–4 has material applicable to ecological testing.

(2) *Applicability*—(i) *General.* Requirements set forth in these standards apply to the development of all data on chemical, physical, and environmental persistence characteristics, and on ecological effects submitted to the Environmental Protection Agency (EPA) by chemical manufacturers and processors in compliance with section 4 test rules promulgated under TSCA. Where more specific or detailed GLP requirements are required by the EPA, these exceptions will be incorporated into the specific test standards or test rules.

(ii) *Applicability to studies performed under grants and contracts.* When a sponsor conducting a study intended to be submitted to or reviewed by the EPA uses the services of a consulting laboratory, contractor, or grantee to perform an analysis or other service, the sponsor must notify the consulting laboratory, contractor or grantee that the service is part of a study that must be conducted in compliance with the provisions of these standards.

(3) *Definitions.* (i) "Batch" means a specific quantity or lot of a test or control substance.

(ii) "Biohazardous" means toxic to organisms or biological systems.

(iii) "Chemical fate testing" means activities relating to or performed for the characterization of physical, chemical, and persistence factors that determine the fate of test substances and their transformation products in soil, water, and air.

(iv) "Control substance" means any chemical substance or mixture administered to the test system in the course of a study for establishing a basis for comparison with the test substance.

(v) "Ecological effects testing" means activities relating to or performed for the generation of information on non-human toxicity and potential ecological impact of test substances and their degradation products.

(vi) "Impurity" means any ingredient present in a batch or preparation, other than a specified active ingredient or intentionally added inert ingredient, and includes impurities, contaminants, reaction products, and degradation products.

(vii) "Intentionally added inert ingredient" means any inert ingredient which is intentionally added to the technical active ingredient, or to the manufacturing-use product.

(viii) "Pathobiology" includes the study of abnormal tissue formed as a result of treatment of organisms with, or exposure to, toxic substances.

(ix) "Person" means an individual, partnership, corporation, association, scientific or academic establishment, government agency, or organizational unit thereof, and any other legal entity.

(x) "Quality assurance unit" means any person or organizational element of the testing facility, except the study director, designated by the testing facility management to perform the duties relating to the quality assurance unit specified herein.

(xi) "Raw data" means all data recorded in laboratory worksheets, notebooks, records, memoranda, notes, or recording devices, or exact copies thereof resulting from original observations and activities of a study and necessary for the reconstruction and evaluation of the report of the study. In the event that exact transcripts of raw data have been prepared (e.g., tapes which have been transcribed

verbatim, dated, and verified accurate by signature of the originator), the exact copy or exact transcript may substitute for the original source as raw data. "Raw data" may include photographs, microfilm or microfiche copies, computer printouts, magnetic media including dictated observations, recorded data from automated instruments, and correspondence relating to the planning, conduct, and interpretation of the study.

(xii) "Specimen" means any material derived from a test system for examination or analysis.

(xiii) "Sponsor" means a person who is required by a test rule under section 4 of TSCA to submit to the EPA data developed pursuant to such test rule. The test sponsor is the manufacturer, processor, or person who intends to manufacture or process chemical substances and mixtures subject to said rule and who conducts, commissions, or otherwise develops or has developed the data required by said rule.

(xiv) "Study" means a careful analysis or examination of knowledge used to measure a parameter or parameters.

(xv) "Study director" means the individual responsible for the overall conduct of a study.

(xvi) "Testing facility" means a person as defined above who actually conducts a study, i.e., actually uses the test substance or mixture in a test system. "Testing facility" encompasses any establishment that conducts laboratory studies required under TSCA. It includes:

(A) The buildings, laboratories, laboratory equipment, animal quarters, aquatic holding areas, greenhouses, insectory, growth chambers, testing units (including artificial and natural streams and ponds, fields, or enclosures), storerooms, refrigeration room, preparation rooms, and other premises in which experimental studies and activities pertaining to experimental studies are conducted.

(B) The corporate or other legal entity which owns, operates, or otherwise controls the physical premises and research operations described in paragraph (a)(1)(xvi)(A) of this section.

(C) The owners, managers, scientists, technicians, animal caretakers, and other persons who plan and conduct experiments, analyze data, and otherwise develop the data required by said rule.

(xvii) "Test standard" means a method promulgated or approved by the Agency to measure certain chemical fate and ecological effects parameters under TSCA.

(xviii) "Test substance" means the specific chemical substance or mixture that is used to develop data to meet the requirements of a TSCA section 4 test rule.

(xix) "Test system" means any apparatus, environment, ecosystem, animal, plant, microorganism, or subparts thereof to which the test or control substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test or control substances or mixtures.

(4) *Quality control.* Quality control procedures which form the basis for quality assurance are found in study plans, as described under paragraph (g)(1) of this section. Quality control procedures include instrument calibration and standardization, purity checks on reagents and reference standards, statistical design, and other actions to maintain the standards of the test being performed. Quality assurance procedures provide oversight to test performance in general.

(b) *Test and control substances*—(1) *Characterization.* (i) The identity, purity, and composition or other characteristics which appropriately define the test or control substances must be determined for each batch to be studied and documented before the study begins. Impurities must be defined to the extent required by regulations promulgated under TSCA.

(ii) The batch of the substance tested must be as specified in test rules promulgated by EPA and, unless otherwise specified, must be the same throughout the entire study. If the same batch is required but cannot be used throughout the study because of chemical instability or other relevant factors, other batches of the test substance as nearly identical to the original batch as feasible must be used. Appropriate qualitative and quantitative chemical tests must be performed to verify this identity, and any deviation in identity must be documented and reported.

(iii) If the source characteristics of the test and control substances may impact on the test results, they must be documented by the sponsor or the testing facility by identifying information such as method of derivation, synthesis, fabrication, and purification.

(iv) Since proper evaluation of test results is dependent upon the integrity of the material being tested, the stability of each test or control substance must be ascertained under the conditions of storage and use or application as relevant to any study or part thereof by the testing facility or by the sponsor before initiation of the study. When the test or control substance has deteriorated beyond a limit specified in the study plan, the substance must not be used for tests.

(v) Each storage container for a test or control substance must be labeled by name of the substance, chemical abstract number (CAS) or code number, batch number, expiration date and, where appropriate, storage conditions necessary to maintain the identity, purity, and composition of the test or control substance. Storage containers must be assigned to one particular test substance only for the duration of the study. No container may be used which will contaminate the test or control substance in such a way as to invalidate test results.

(vi) When samples of test and control substances are required to be retained, those samples must be retained for the period of time provided by paragraph (h)(3)(ii) of this section and must be stored and maintained as specified in paragraph (h) (2) and (3) (iii) of this section.

(2) *Handling.* (i) Procedures must be established for the handling of test and control substances to ensure that:

(A) There is proper storage in an area with restricted access under conditions that will ensure stability and integrity of the test and control substances.

(B) Distribution is made in a manner designed to preclude the possibility of contamination, deterioration, or damage.

(C) The substances are properly identified throughout the distribution process.

(D) The receipt and distribution of each batch is documented. Such documentation must include the date and quantity of each batch distributed or returned.

(ii) To assure that any potentially adverse effect on testing facility personnel due to toxic substances being evaluated be minimized, appropriate recommendations of the Department of Health and Human Services on the handling of carcinogens should be followed. For other toxic, but noncarcinogenic substances, methods for safe handling and disposal in general use, e.g., as described in appropriate section 29 CFR Part 1910, OSHA Standards or applicable regulations in other countries, and published manuals for laboratory safety, should apply.

(iii) If radioactive materials are used, special facilities or areas and licensing of persons to possess and use radioactive materials should be in accordance with regulations set forth by the Nuclear Regulatory Commission.

(iv) Substances that may react violently, explode, or spontaneously burn must be handled and protected in

such a way that possible undesirable events will not occur.

(3) *Mixtures of substances with carriers.* (i) For each test or control substance that is mixed with or dissolved in a carrier, tests by appropriate analytical methods must be conducted to:

(A) Determine the uniformity of the mixture and, periodically, the concentration of the test or control substance in the mixture. When the mixture has deteriorated beyond a limit specified in the study plan, the mixture may not be used for tests.

(B) Determine the stability of the test and control substance when they are part of the mixture.

(ii) A record must be kept of the preparation and usage of each treatment mixture, including the dates, quantities prepared or used and the names of the responsible individuals.

(iii) When samples of test-carrier or control-carrier mixtures are required to be retained those samples must be taken and retained for the period of time provided by paragraph (h)(3)(ii) of this section.

(iv) Where any of the components of the test-carrier or control-carrier mixture has an expiration date, that date must be clearly shown on the container. If more than one component has an expiration date, the earliest date must be shown.

(c) *Organization and personnel*—(1) *Personnel.* (1) Each individual engaged in the conduct of or responsible for the supervision of a study must have adequate education, training, and/or experience to perform the assigned functions. Each individual supervising tests must have an educational level equal to or exceeding a professional degree, or equivalent experience, in the relevant subject matter.

(ii) Each testing facility must maintain a current summary of training and experience and a job description for each individual engaged in or supervising the conduct of a study. The Environmental Protection Agency may, at any time, request such summaries from the test sponsor.

(iii) There must be sufficient personnel available for the timely and proper conduct of the study according to the study plan.

(iv) Personnel must take necessary personal sanitation and health precautions to avoid contamination of test and control substances and test systems and to minimize exposure of personnel to toxic substances.

(v) Personnel engaged in a study must wear clothing appropriate for the duties they perform. Such clothing must be changed as often as necessary to prevent microbiological, radiological, or chemical contamination of test systems and test and control substances and to minimize exposure of personnel to such materials.

(2) *Testing facility management.* For each study, the testing facility management must:

(i) Designate a study director as described in paragraph (c)(3) of this section before the study is initiated.

(ii) Replace the study director promptly if it becomes necessary to do so during the conduct of a study, and document and maintain such action as raw data.

(iii) Assure that there is a quality assurance unit as described in paragrpah (c)(4) of this section.

(iv) Assure that personnel, resources, facilities, equipment, materiel and study plans required for the study are available as scheduled.

(v) Assure that personnel are qualified for and clearly understand the functions they will perform.

(vi) Assure any deviations from these regulations reported by the quality assurance unit are communicated to the study director and corrective actions are taken and documented.

(vii) Assure that the test facility operation conforms with OSHA standards and guidelines for health and safety of the personnel.

(3) *Study Director.* For each study, a scientist or other professional of appropriate education, training, and experience must be identified as the study director. The study director is responsible for the overall conduct and reporting of the study and for implementation of the approved study plan. The study director must assure that:

(i) The study plan, including any change, is approved as provided by paragraph (g)(1)(i) of this section and followed.

(ii) Test and control substances or mixtures have been appropriately tested for identity, purity, composition, stability, and uniformity as applicable.

(iii) All experimental data, including observations of unanticipated responses to the test system, are accurately recorded and verified.

(iv) Unforeseen circumstances that may require deviation from approved methods and study plans and may affect the quality and integrity of the study are noted when they occur, and corrective action is taken and documented. The study director is responsible for proper documentation of such events and for the evaluation of their effects on the overall study objectives.

(v) Test systems are as specified in the study plan.

(vi) All applicable good laboratory practice standards are followed.

(vii) All raw data, documents, study plans, specimens, and final reports are transferred to the archives during, or at the close of, the study.

(4) *Quality assurance unit.* (i) A testing facility must have a quality assurance unit composed of one or more individuals responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls conform to these standards. Each facility's quality assurance unit must also monitor each study performed by contractors or grantees. It is recommended that the quality assurance functions be separate and independent of personnel engaged in the direction and conduct of a study. In all cases, a quality assurance plan must be prepared by the testing organization prior to initiation of the study and be available for Agency review upon request.

(ii) The quality assurance unit must:

(A) Maintain and make available for examination a copy of a master schedule sheet of all TSCA-related studies conducted at the testing facility, indexed by test substance and describing the test system, nature of the study, date the study was initiated, current status of each study, name of the sponsor, name of the study director, and status of the final report.

(B) Maintain copies of all study plans pertaining to all TSCA-related studies for which the unit is responsible.

(C) Review and approve the quality assurance section of each study plan.

(D) Periodically inspect each phase of each type of study performed or, in the case of routine chemical or physical determinations, the conduct of each kind of analysis, and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for reinspection. Inspections must be conducted at least every three months to assure the integrity of the study. Any significant problems found during the course of an inspection and likely to affect study integrity must be brought to the attention of the study director and management immediately.

(E) Submit to management and the study director periodic written status reports on each study, noting any problems and the corrective actions taken.

(F) Ascertain that all deviations from sponsor-approved study plans or

standard operating procedures and the pertaining authorizations are properly documented.

(G) Review the final study report to assure that such report accurately describes the methods and standard operating procedures and that the reported results accurately reflect the raw data of the study.

(H) Prepare and sign a statement, to be included with the final study report, which specifies the dates inspections were made and findings reported to management and to the study director.

(iii) Written notices of the responsibilities and procedures applicable to the quality assurance unit, a list of the records maintained by the quality assurance unit, and the method of indexing such records must be maintained. These items, including inspection dates, the study inspected, the phase or segment of the study inspected, and the name(s) of the individual(s) performing the inspection, must be made available to authorized employees of the EPA.

(iv) A designated representative of the EPA must have access to the written procedures established for the inspection and may request testing facility management to certify that inspections are being implemented, performed, documented, and followed up in accordance with this paragraph.

(v) All records maintained by the quality assurance unit must be kept in one location at the testing facility.

(d) *Facilities*—(1) *General.* (i) Each testing facility must be of suitable size, construction and location to allow the proper conduct of studies. It must be designed to prevent any function or activity from adversely affecting the study.

(ii) The testing facility and test system, as defined in paragraph (a)(3) of this section, must conform to OSHA standards and guidelines for health and safety of personnel.

(iii) The facilities must have provisions to regulate temperature and humidity, as and when specified in the protocol.

(2) *Facilities for handling test and control substances.*

(i) As necessary to prevent contamination or mix-ups, the following areas must be physically separated from any area used for testing the test substances:

(A) Areas used for receipt and storage of the test and control substances.

(B) Areas used for mixing of the test and control substances with a carrier, e.g., feed or water, and preparation of stock solutions of the test substances.

(C) Areas used for storage of the test and control substance mixtures.

(ii) Storage areas for the test and control substances and for mixtures containing test and control substances must be separate from areas housing the test systems and be adequate to preserve the identity, concentration, purity, and stability of the substances and mixtures.

(3) *Specimen and data storage facilities.* Space must be provided for archives, limited to access by authorized personnel only, for the storage and retrieval of all raw data and specimens from completed studies, as detailed in paragraph (h)(2) and (3) of this section.

(4) *Administrative and personnel facilities.* Space must be provided for the administration, supervision, and direction of the testing facility.

(e) *Equipment*—(1) *Equipment design.* Automatic, mechanical, or electronic equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control must be of appropriate design and adequate sensitivity and capacity to function according to the study plan and must be suitably located for operation, inspection, cleaning, and maintenance.

(2) *Maintenance and calibration of equipment.* (i) The written standard operating procedures required under paragraph (f)(1) of this section must show in sufficient detail the methods, materials and schedules used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment. They must also specify remedial action to be taken if failure or malfunction of equipment occurs. The written standard operating procedures must designate the person responsible for the performance of each operation, and copies of the standard operating procedures must be made available to laboratory personnel.

(ii) Written records must be maintained of all inspection, maintenance, testing, calibrating, and/or standardizing operations. These records must contain the date of the operation and describe whether the maintenance operations were routine and followed the written standard operating procedures. Written records must be kept of nonroutine repairs performed on equipment as a result of failure and malfunction. Such records must document the nature of the defect, how and when the defect was discovered, and any remedial action taken in response to the defect.

(f) *Testing facilities operation*—(1) *Standard operating procedures.* (i) A testing facility must have written standard operating procedures that describe study methods that satisfy management as being adequate to ensure the quality and integrity of the data generated during the study. The study director must authorize all deviations in a study from standard operating procedures and document them in the raw data.

(ii) Standard operating procedures must be established for, but not limited to, the following:

(A) Recipt, identification, storage, handling, mixing, and method of sampling of the test and control substances and mixtures.

(B) Description and method of operation of test system.

(C) Data handling, storage, and retrieval.

(D) Maintenance and calibration of equipment.

(E) Disposal of toxic and hazardous wastes in accordance with regulations.

(F) Quality control procedures used in tests and test system observations, data management, and organism maintenance.

(iii) Each laboratory area must have have immediately available laboratory procedures being performed, e.g., pertaining to toxicology, histology, physical chemistry, analytical chemistry, hematology, morphology, teratology, necropsy, or microbial culturing. Published literature may supplement standard operating procedures.

(iv) An historical file of standard operating procedures and all revisions thereof, including the dates of such revisions, must be maintained.

(2) *Reagents and solutions.* All reagents and solutions in the laboratory must be labeled to indicate identity, titer or concentration, storage requirements, and expiration date. Deteriorated or outdated reagents and solutions must not be used.

(g) *Study plan and conduct of a study*—(1) *Study plan.* (i) Each study must follow a written study plan approved by the sponsor that clearly indicates the objectives and all methods for the conduct of the study. The study plan must contain, but not be limited to, the following information:

(A) A descriptive title and statement of the purpose of the study.

(B) Identification of the test and control substance or mixture by name, chemical abstract (CAS) number, or referenced code number.

(C) Stability, shelf life, and expiration date, where applicable, of the test and control substance or mixture.

(D) The name of the sponsor and the name and address of the testing facility conducting the study.

(E) The proposed starting and completion dates.

(F) A description of the experimental design, including, where applicable, the test standard to be used, as promulgated or approved by the Agency, the methods for control of bias, statistical considerations concerning the experimental design, the number of blind, blank, spiked, split, and recycled samples, and precision and accuracy statements.

(G) Where applicable, the type and frequency of test, analyses, and measurements to be made.

(H) A statement of the proposed statistical methods to be used for the evaluation of the test results.

(I) The records to be maintained.

(J) The date of approval of the protocol by the sponsor and the signature of the study director.

(ii) The following information need not be included in the study plan but must be available for audit:

(A) A description of the testing equipment and instrumentation, where applicable, including maintenance and calibration procedures and frequencies.

(B) A quality assurance plan that described in detail all quality assurance aspects pertaining to the study. This quality assurance plan must be reviewed and approved by the quality assurance unit.

(C) The names and resumes of the study director and principal investigators, including a list by position and function of personnel planned to be allocated to the study.

(iii) All changes in or revisions of the sponsor-approved study plan and the reasons therefor must be documented, signed by the study director, dated and maintained with the study plan.

(iv) In addition to the study plan requirements as described in paragraph (g) (i), (ii) and (iii) of this section, additional requirements may be specified in appropriate test standards or test rules.

(2) *Conduct of a study.* (i) The study must be conducted in accordance with the study plan.

(ii) Each phase of the study must be supervised and conducted by trained and informed individuals.

(iii) The test system must be monitored in conformity with the study plan.

(iv) All data generated during the conduct of a study, except those that are generated as direct computer input, must be recorded directly, promptly, legibly, and indelibly. All data entries must be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries must be made so as to avoid obscuring the original entry, must indicate the reasons for such change and be dated and signed or identified at the time of the change. In computer-driven data collection systems, the individual reponsible for direct data input must be identified at the time of data input. Any change in computer entries must be recorded in a separate log which must include the original data entry, indicate the reason for change, be dated, and identify the individual responsible for making the change.

(h) *Records and reports*—(1) *Reporting of study results.* (i) A final report must be prepared for each study and include, but not be limited to, the following:

(A) Name and address of the facility performing the study and the dates on which the study was started and completed.

(B) Objectives and procedures stated in the approved study plan, including any changes in the original study plan.

(C) The name of the study director, the names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(D) The test and control substances identified by name, chemical abstract (CAS) number or referenced code number, purity and composition, or other appropriate characteristics.

(E) Information regarding the stability of the test and control substances under all conditions of the study.

(F) A description of the methods and test standards used or a reference thereto.

(G) A description of the test system used or a reference thereto.

(H) A description of the quality assurance methods used to insure the quality of the data.

(I) A description of all circumstances that may have affected the quality or integrity of the data.

(J) A description of statistical methods employed for analyzing the data.

(K) A description, where applicable, of the transformation, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. The analysis of the data must include a report of suitable statistical parameters, e.g., number of data points, standard deviation, coefficient of variation, regression coefficients, and confidence intervals, as appropriate.

(L) The locations where all specimens, raw data, and final report are stored.

(M) The statement prepared and signed by the quality assurance unit as described in paragraph (c)(4)(ii)(H) of this section.

(ii) The study director must sign the final report.

(iii) Corrections or additions to a final report must be written as an amendment by the study director. The amendment must clearly identify the part of the final report that is being amended or corrected and the reasons for the changes, and must be signed and dated by the person responsible. Alternatively, the final report may be reissued with references to the report it replaces so that no part of the record is lost.

(iv) In addition to the reporting requirements as described in paragraph (h)(1) (i) to (iii) of this section, additional reporting requirements, including the report format, may be specified in appropriate test standards and rules.

(2) *Storage and retrieval of records and data.* (i) All raw data, documentation, study plans, specimens and final reports generated as a result of a study must be retained as specified in paragraph (h)(3) of this section.

(ii) Archives must be used for orderly storage and expedient retrieval of all raw data, documentation, study plans, specimens, and interim and final reports. Conditions of storage must minimize deterioration of the documents or specimens in accordance with the requirements for the time period of their retention and the nature of the documents or specimens. A testing facility may contract with commercial archives to provide a repository for all material to be retained. Raw data and specimens may be retained elsewhere provided the archives have specific reference to those other laboratories.

(iii) An individual must be identified as responsible for the archives.

(iv) Only authorized personnel may enter the archives.

(v) Material retained or referred to in the archives must be indexed by test substance or mixture, sponsor, date of study, test system, and nature of study.

(vi) In addition to the requirements for the storage and retrieval of records and data as described in paragraph (h)(2)(i) through (v) of this section, other requirements may be specified in appropriate standards and rules.

(3) *Retention of records.* (i) Record retention requirements set forth in these standards do not supersede the record retention requirements of any other pertinent regulation.

(ii) Except as provided in paragraph (h)(3)(iii) of this section, raw data, documentation, records and specimens pertaining to a study and required to be stored must be retained in the archives by the testing facility for at least 10 years from the date the final study report is submitted to the EPA.

(iii) Wet specimens, samples of test or control substances, samples of test or control substance carrier mixtures, and

specially prepared materials which are relatively fragile and change markedly during storage, must be retained only as long as the quality of the preparation affords evaluation. In no case will retention of such materials be required for more than 10 years after the conclusion of the study.

(iv) The master schedule sheet, copies of study plans, and records of quality assurance inspections, as required by paragraph (c)(4)(iii) of this section, must be maintained by the quality assurance unit as an easily accessible system of records for at least 10 years after the conclusion of the study.

(v) Summaries of personnel training and experience and job description required to be maintained by paragraph (c)(1)(iii) of this section must be retained along with all other testing facility employment records for at least 10 years after the conclusion of the study.

(vi) Records and reports of the maintenance, calibration, and inspection of equipment, as required by paragraph (e)(2)(ii) and (iii) of this section, must be retained for at least 10 years after the conclusion of the study.

(vii) If a facility conducting testing goes out of business, all raw data, documentation, and other materials specified in this section must be transferred to the archives of the sponsor of the study. The EPA must be notified in writing of such a transfer.

(i) *Inspection of a testing facility.* A testing facility must permit an authorized employee of the EPA to conduct inspections and audits.

§ 772.110–3 Physical, chemical, and persistence testing.

(a) *Scope and purpose.* The provisions contained in this section are in addition to the general provisions set forth in § 772.110–2. They address items that are specific to physical, chemical, and persistence testing.

(b) *Personnel*—(1) *General requirements.* (i) The physical, chemical, and persistence test procedures must be performed and supervised by chemists, microbiologists, and soil scientists with demonstrated competence in performing the types of test procedures specified.

(ii) The analyst must perform, with minimal supervision, in those specialties for which the analyst is qualified by education, training, and experience.

(iii) The supervisor must direct technical personnel in the proper performance of laboratory procedures and the reporting of results.

(2) *Specific requirements*—(i) *Analyst*—(A) *Academic training.* An analyst must have a minimum of a high school diploma or its equivalent.

(B) *Experience.* An analyst must have a minimum of one year of experience in laboratory testing plus a minimum of 3 months on-the-job experience in performing the measurements being considered.

(C) *Supervision.* An analyst must be supervised by an experienced professional scientist.

(ii) *Supervisor*—(A) *Academic training.* A supervisor must have a minimum of a Bachelors degree in chemistry, microbiology, biology, or closely related fields as appropriate to the assigned area of responsibility.

(B) *Experience.* A supervisor must have a minimum of 2 years on-the-job experience with the general types of measurements being considered.

(C) *Laboratory requirements.* (1) Laboratory space must be adequate to accomodate the periods of peak workload. Working space requirements must include sufficient bench-top area for processing samples; storage space for chemicals, glassware and portable equipment items; floor space for stationary equipment (refrigerators, centrifuges, shakers, etc.); and associated areas for cleaning glassware and sterilizing materials or media.

(2) The microbiological studies involved the use of sewage from domestic wastewater treatment plants. Consequently, individuals performing these tests may be exposed to microbial agents that are hazardous to human health. All individuals working with those tests or in the vicinity of those sewage samples must be made aware of the potential hazard and take appropriate steps to minimize the hazard. It is recommended that all individuals who conduct biodegradation tests be immunized against typhoid and tetanus within the five year period preceding the starting date of the test. The sparging of test flasks shall be conducted in a laboratory hood that is vented to the atmosphere.

(3) The study director must take appropriate measures for the protection of all individuals who will handle or may be exposed to the test material.

§ 772.110–4 Ecological effects testing.

(a) *Scope and purpose.* The provisions contained in this section are in addition to the general provisions set forth in § 772.110–2. They address items that are specific to ecological effects testing.

(b) *Personnel*—(1) *General requirement.* Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study must be excluded from direct contact with test systems, test and control substances, and any other operation or function that may adversely affect the study, until the condition is corrected. All personnel must be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to adversely affect a study.

(2) *Specific requirements.* (i) A biologist (or other professional) with adequate training and experience in a pertinent discipline must perform or directly supervise all studies conducted with test animals or plants. Important qualifications for laboratory personnel performing such studies include, but are not limited to, education, experience in growing and testing the organisms being selected or their taxonomically close reltives, and adequate knowledge of culture methods, life cycles, and environmental requirements of the test organisms.

(ii) A microbiologist, or other professional, with adequate training and experience must perform or directly supervise all microbiological tests.

(iii) A Board-certified or Board-eligible veterinarian (or other professional) with adequate training and experience in the pertinent disciplines shall ascertain health status of all terrestrial vertebrate test animals prior to the study and be responsible for the general health and care of all such test animals during the experiment. This individual must supervise all laboratory animal care technicians. An experienced aquatic or fisheries biologist must ascertain the health status of all aquatic test animals and be responsible for the general health and care of all aquatic test animals.

(iv) A Board-certified or Board-eligible pathologist (or other professional) with appropriate experience in pathobiology must perform or directly supervise all necropsies, approve the methods and procedures used in the preparation of all histopathologic material, and assist in the final analysis of all pathology data. In addition, such an individual must conduct all microscopic analyses and render all histopathologic diagnoses.

(v) The chemist who provides analytical services must have the education, training, and experience for performing accurate chemical analyses of organic and inorganic compounds that may be found in water, soil, air, and biological samples taken during the tests and must be skilled in separation and instrumental techniques required in such analyses. Instruments that may be required for these analyses include, but are not limited to, gas and liquid chromatographs with various detectors and ultraviolet, infrared, nuclear magnetic resonance, mass, and atomic absorption spectrometry.

(vi) A technician with adequate training, experience, and capability must be responsible for the preparation of all histological material. The technician may, under direct supervision of the pathologist, perform the animal necropsies. Certification of the technician by the American Society of Clinical Pathology (ASCP) is acceptable as proof of adequate training in all cases.

(vii) A technician with adequate training, experience, and capability must be responsible for all general laboratory animal observation, handling, care, and feeding. In addition, the technician must be responsible for sanitation, observation of climate control, and the recording of routine data. The technician may also perform other tasks under the supervision of the veterinarian. The technican may, under the direct supervision of the pathologist, perform the animal necropsies. Certification of the technician by the American Association of Laboratory Animal Science (AALAS) is acceptable as proof of adequate training in all cases.

(viii) For aquatic animal studies, a technician with the training, experience, and capability to successfully maintain aquatic vertebrates and invertebrates must be responsible for the general laboratory animal observation, handling, care, and feeding. The technician must also handle the sanitation duties, observe environmental controls (e.g., water flow rate, temperature, salinity, dissolved oxygen, etc.), and record routine data. The technician may perform, under the supervision of a professional such as a biologist or veterinarian trained in fishery management, fish disease, pathology, and physiology, and other pertinent fields, other tasks for which the technician is qualified, e.g., preparation of test mixtures, administration of test chemicals, obtaining samples for chemical analyses, making growth measurements, etc. The technician may, under the direct supervision of the pathobiologist, or other professional serving in lieu of a pathologist, perform the animal necropsies.

(ix) In addition to the specific personnel requirements as described above, further personnel requirements may be specified in appropriate test standards and test rules.

(c) *Facilities*—(1) *Test organism care facilities.* (i) General provisions to be followed are outlined in the Animal Welfare Act of 1970 (Pub. L. 91–579) as set forth in 9 CFR Part 3, and in "Guide for The Care And Use of Laboratory Animals" which is incorporated by reference. It is DHEW Publication No. (NIH) 78–23 and is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When ordering use GPO Stock No. 017–040–00427–3. It is also available for inspection at the Office of the Federal Register Information Center, Room 8391, 1100 L Street, NW., Washington, DC 20408. Additional provisions may be found in the report "Long-Term Holding of Laboratory Rodents" which is incorporated by reference. It is a report of the Committee on Long-Term Holding Of Laboratory Rodents of the Institute of Laboratory Animal Resources, Assembly of Life Sciences, National Research Council and was published in ILAR News, volume XIX, Number 4, 1976. Copies may be obtained from the Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room 447, 401 M Street SW., Washington, DC 20460. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. For avian species, the requirements as described in the proposed regulations of 40 CFR 163.71–2 and 163.71–4 apply. Further guidance is given in "Quality Assurance Guidelines for Biological Testing" which is incorporated by reference. It is EPA Publication No. EPA–600/4–78–043 and is for sale by the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–285 369. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. Additional guidance is in "Bioassay Procedures for the Ocean Disposal Permit Program" which is incorporated by reference. It is EPA Publication No. EPA–600/9–78–010 and is available from EPA, Office of Research and Development, Technical Information Staff, Cincinnati, OH 45268. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Further guidance may be found in "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians" which is incorporated by reference. It is EPA Publication No. EPA–660/3–75–009 and is for sale from the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–242 105. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408.

(ii) A testing facility must have a sufficient number of rooms or areas for test organisms, to assure compliance with the study plan specifications in:

(A) Separation of species or test systems.

(B) Isolation of individual projects.

(C) Quarantine of animals and plants.

(D) Routine and specialized housing of test organisms. Plants, microorganisms, or aquatic animals of different species need not be housed in separate rooms, provided they are adequately segregated to avoid mix-up and cross contamination. Stocks of animals from which test animals are drawn must be housed separately from those undergoing testing.

(iii) A testing facility must have a number of rooms or areas for test organisms separate from those described in paragraph (c)(1)(i) of this section to ensure isolation of studies being done with test systems or test and control substances known to be biohazardous. Such rooms or areas must be maintained in compliance with OSHA regulations to ensure the health and safety of personnel.

(iv) Separate areas must be provided for the diagnosis, treatment, and control of laboratory plant and animal diseases. These areas must provide effective isolation for the housing of test organisms either known or suspected of being diseased or of being disease carriers.

(v) Facilities must exist for the collection and disposal of all waste from test organisms and for safe sanitary storage of waste before removal from the testing facility. Disposal facilities must be so provided and operated as to minimize vermin infestation, odors, disease hazards, and environmental contamination.

(2) *Supply and support facilities*—(i) *Animal supply facilities.* There must be storage areas for feed, bedding, supplies, and equipment. Feed and bedding storage areas must be protected against infestation or contamination. Refrigeration must be provided for perishable supplies and perishable feed.

(ii) *Plant supply and support facilities.* (A) There must be storage areas for equipment and supplies, and there must be receiving and holding areas for samples and plant material.

(B) There must be support facilities suitable for culturing and maintaining algae or aquatic plants, as specified in the study plan.

(C) There must be support facilities, as specified in the study plan, for plant growth (greenhouse, growth chamber, light banks) to maintain sanitary growth

conditions (insect-and weed-free) with provisions for sterilized media.

(D) Refrigeration must be provided for supplies and for holding plant material.

(3) *Laboratory operation areas.* (i) Separate laboratory space must be provided for the performance of the routine procedures required by studies, including specialized areas for activities such as aseptic procedures, intensive care, necropsy, histology, radiography, and handling of biohazardous materials, as specified in the study plans.

(ii) Separate space must be provided for cleaning, sterilizing, and maintaining equipment and supplies used during the study.

(iii) For the health and safety of personnel, separate space must be provided for locker, shower, toilet, and washing facilities, as required in regulations set forth by OSHA under Title 29 of the Code of Federal Regulations.

(d) *Testing facilities operation*—(1) *Standard operating procedures.* (i) Standard operating procedures must be established in conformance with the requirements of appropriate test standards. These should include, but not be limited to, the following:

(A) Test facility, animal room, greenhouse, incubators, preparation for study plan execution.

(B) Organism care.

(C) Laboratory tests, e.g., extraction of residues from tissue samples, extract cleanups, quantitation of residues, and identification of metabolites.

(D) Handling of organisms found moribund or dead.

(E) Postmortem examination of test organisms, necropsy of animals, plant pathology work-up.

(F) Collection and identification of specimens.

(G) Histopathology.

(H) Transfer, proper placement, and identification of test organisms.

(2) *Test organism care.* (i) There must be standard operating procedures for the housing, feeding, handling, and care of test organisms.

(ii) General provisions to be followed are outlined in the Animal Welfare Act of 1970 under 9 CFR Part 3, and in "Guide for The Care And Use of Laboratory Animals" which is incorporated by reference. It is DHEW Publication No. (NIH) 78–23 and is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When ordering use GPO Stock No. 017–040–00427–3. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. Additional provisions may be found in the report "Long-Term Holding of Laboratory Rodents" which is incorporated by reference. It is a report of the Committee on Long-Term Holding of Laboratory Rodents of the Institute of Laboratory Animal Resources, Assembly of Life Sciences, National Research Council and was published in ILAR News, Volume XIX, Number 4, 1976. Copies may be obtained from the Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room 447, 401 M Street SW., Washington, DC 20460. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. All animals for which there are no specific regulations should be housed, fed, and handled in compliance with Subpart E of 9 CFR Part 3. Avian care rcommendations for bobwhite quail and mallard ducks (40 CFR 163.71–2 and 163.71–4) should be followed as appropriate for other species. Aquatic macroinvertebrates, fish, and other aquatic animals should be handled and maintained according to the guidance given in "Quality Assurance Guidelines for Biological Testing" which is incorporated by reference. It is EPA Publication No. EPA–600/4–78–043 and is for sale by the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–285 369. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Additional provisions may be found in "Bioassay Procedures for the Ocean Disposal Permit Program" which is incorporated by reference. It is EPA Publication No. EPA–600/9–78–010 and is available from EPA, Office of Research and Development, Technical Information Staff, Cincinnati, OH 45268. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW, Washington, DC 20408. Further guidance may be found in "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians," which is incorporated by reference. It is EPA Publication No. EPA–660/3–75–009 and is for sale from the National Technical Information Services (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–242 105. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Aquatic and terrestial plants are to be cultured according to the test standards cited in the applicable test rule. If the study so requires, deviation from the standard, e.g., use of restraining devices, is acceptable, provided there is adequate documented justification of the need for such deviation. Such documentation shall be retained as part of the records of the study.

(iii) All newly received test organisms from outside sources must be placed in quarantine until their health status (including disease or parasitism) has been evaluated. The evaluation of animals (including mammals and birds) must be done in accordance with acceptable scientific practice. The test organism source, date of arrival, and the health status of the test organisms must be recorded as a part of the raw data.

(iv) At the initiation of a study, test organisms must be free of any disease or condition (such as residual therapeutic agents) that might interfere with the purpose or conduct of the study. If, during the course of the study, the test organisms contract such a disease or condition, the diseased test organisms must be isolated. If necessary, such test organisms may be treated for disease or signs of disease provided such treatment does not interfere with the study and all test organisms in the study receive the same treatment. However, unless a strong rationale, approved by the sponsor and the Environmental Protection Agency, can be set forth, the study should be terminated and begun again with new test organisms. The diagnosis, authorizations of treatment, description of treatment, and dates of treatment must be documented and the documents retained.

(v) Organisms must be treated in accordance with specific study plans, which will include provisions for identification of individuals or groups at all stages of handling. Warm-blooded animals, terrestrial reptiles, and amphibians used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require the animals to be removed from and return to their home cages for any reason (e.g., cage cleaning, treatment, etc.) must be unequivocally identified via tattoo, toe clip, color code, ear tag, ear punch, etc. All information needed to identify each animal within an animal-housing unit must be placed on the outside of that unit.

(vi) Different species, or organisms of the same species but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to control or test substances or test organism mix-up could affect the outcome of either study. If such mixed

housing is necessary, adequate differentiation by space and identification must be made.

(vii) Cages, racks and accessory equipment, pens and enclosures, aquaria, holding tanks and ponds, and other equipment and support areas must be cleaned and sanitized at appropriate intervals. Other test organism holding, rearing, breeding, and housing areas and equipment must be cleaned and, as appropriate, sanitized to an equivalent extent.

(viii) Feed and water used for the test organisms must be analyzed periodically to ensure that contaminants capable of interfering with the study and reasonably expected to be present in such feed or water do not exceed levels specified in the study plans. Documentation of such analyses must be kept as raw data.

(ix) Bedding used in animal cages or pens must not interfere with the purpose or conduct of the study and must be changed as often as necessary to keep the animals dry and clean.

(x) For marine aquatic tests, an adequate supply of clean sea water or artificial sea water (prepared from deionized or distilled water and sea-salt mixture) is required. The ranges of composition will be as specified in the test standards. For fresh-water tests, an adequate supply of clean water of the proper hardness, pH, and temperture, and devoid of contaminants, is mandatory.

(xi) The use of any pest control materials must be documented. Use of cleaning materials and pest control materials that interfere with the study must be avoided.

(e) *Study plan and conduct of a study*—(1) *Study plan.* (i) The approved written study must include, but not be limited to, the following:

(A) Where applicable, the justification for selection of the test organisms, the number of test organisms used, their sex, age, body weight range, source of supply, species, strain, and substrain.

(B) Where applicable, the procedure for identification of individuals or groups of the test organisms.

(C) Where applicable, a description and/or identification of the diet used in the study as well as kinds and concentrations of solvents, emulsifiers, and/or other materials used to solubilize or suspend the test or control substances before mixing with the carrier. The description must include specification for acceptable levels of contaminants reasonably expected to be present in the dietary materials and known to be capable of interfering with the purpose or conduct of the study if levels exceed those established by the specifications.

(D) Where applicable, the route of administration and the reason for its choice.

(E) Where applicable, each dosage level, expressed in milligrams per kilogram of body weight or other appropriate units, of the test or control substance to be administered, and the method and frequency of administration.

(F) Where applicable, the method by which the degree of absorption of the test and control substances by the test system will be determined to achieve the objectives of the study.

(2) *Conduct of a study.* (i) Where applicable, specimens must be identified by test system, study, nature, and date of collection. This information must be located on the specimen container or accompany the specimen in a manner that avoids error in the recording and storage of data.

(ii) Where applicable, records of gross findings for a specimen from postmortem observations must be available to the pathologist examining that specimen histopathologically.

(f) *Reporting of study results.* (1) The final report must include, but not be limited to the following:

(i) Where applicable, the number of test organisms used, sex, age, body weight range, source of supply, species, strain, substrain, and procedure used for identification of groups or individuals.

(ii) Where applicable a description of the dosage, dosage regimen, route of administration and duration.

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federal register

Friday
November 21, 1980

Part V

Department of Education

Transfer and Redesignation of ED Regulations; Final Rule

DEPARTMENT OF EDUCATION

24 CFR Ch. II

34 CFR Subtitles A and B

45 CFR Chs. I, XIV, and XV

Transfer and Redesignation of ED Regulations

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Department of Education Organization Act (Pub. L. 96–88, enacted October 17, 1979) established the Department of Education (ED) as a new executive department. Certain ED regulations were recodified in Title 34 of the Code of Federal Regulations (CFR) effective May 4, 1980, concurrently with the formal organization of ED.

This publication transfers to Title 34 and redesignates certain regulations of the former Department of Health, Education, and Welfare and one regulation of the Department of Housing and Urban Development. These regulations apply to ED and will be published in Title 34 after the effective date of this document.

EFFECTIVE DATE: This regulation is effective November 21, 1980.

ADDRESS: Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth C. Depew, Department of Education, 400 Maryland Ave. S.W. (Room 2134, FOB–6), Washington, D.C. 20202, Telephone: (202) 245–7091.

SUPPLEMENTARY INFORMATION: The organization of Title 34 was published on May 9, 1980 (45 FR 30802) as follows:

Title 34—Education

Subtitle A—Office of the Secretary, Department of Education (Parts 1–99).

Subtitle B—Regulations of the Offices of the Department of Education.

Chapter I—Office for Civil Rights (Parts 100–199).

Chapter II—Office of Elementary and Secondary Education (Parts 200–299).

Chapter III—Office of Special Education and Rehabilitative Services (Parts 300–399).

Chapter IV—Office of Vocational and Adult Education (Parts 400–499).

Chapter V—Office of Bilingual Education and Minority Languages Affairs (Parts 500–599).

Chapter VI—Office of Postsecondary Education (Parts 600–699).

Chapter VII—Office of Educational Research and Improvement (Parts 700–799).

Chapter VIII—Office of Education for Overseas Dependents (Parts 800–899).

Regulations redesignated in this document have been placed within this organizational structure. As an aid to the reader, the part numbers that have been redesignated in this document and those that were republished on May 9, 1980 at 45 FR 30802 are listed sequentially by Title 34 chapter in an appendix following the redesignation.

It has been determined that publication of this rule as a proposal for public comment is unnecessary since it is solely a redesignation of existing regulations. These regulations apply to ED as a matter of law under Section 505(a) of the Department of Education Organization Act.

Nomenclature changes in these regulations are necessary and will be published separately from this redesignation and transfer.

Regulations Not To Be Redesignated

ED has provided certain administrative services for the Health Education Assistance Loan (HEAL) program, 45 CFR Part 126, under an interim interdepartmental agreement between ED and the Department of Health and Human Services. The HEAL regulations are not transferred and redesignated in this document.

(Department of Education Organization Act, Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668 (20 U.S.C. 3401 *et seq.*))

Dated: November 14, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Redesignation of Regulations

Accordingly, existing regulations of the Department of Education in 45 CFR and 24 CFR are redesignated and transferred to Title 34 of the CFR as follows:

Old part number and title of regulation—45 CFR Part	New part number—34 CFR Part
100a Direct project grant and contract programs	75
100b State-administered programs	76
100c General	77
100d Education Appeal Board	78
101 Grants to land grant colleges and universities	621
104 State vocational education programs	400
105.1–105.507 (Appendices A, B) Commissioner's discretionary programs of vocational education	408
105.601–105.607 Bilingual vocational training program	525
105.611–105.617 Bilingual vocational instructor traning program	526
105.621–105.627 Bilingual vocational instructional materials, methods, and techniques program	527
111 Hearings in connection with school construction and financial assistance in federally impacted areas	218
112 School construction assistance in cases of certain disasters	219
113 Assistance for current school expenditures in cases of certain disasters	220
114 Assistance for school construction in areas affected by Federal activities	221
115 Assistance for local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education	222
116 Financial assistance to local educational agencies and state agencies to meet the special educational needs of educationally deprived, handicapped, migrant, and neglected and delinquent children—general provisions	200
116a Financial assistance to local educational agencies to meet the special educational needs of educationally deprived and neglected and delinquent children	201
116b State operated programs for handicapped children	302
116c Grants to State agencies for programs to meet the special educational needs of children in institutions for neglected or delinquent children	203
116d Grants to State educational agencies to meet the special educational needs of migratory children	204
119 Strengthening State educational agency management	208
120 Administration of education programs and duties of the State educational agency	209
121a Assistance to States for education of handicapped children	300
121b Regional resource centers	305
121c Centers and services for deaf-blind children	307
121d Early education for handicapped children	309
121e Auxiliary activities	315
121f Training personnel for the education of the handicapped	318
121g Recruitment of personnel and dissemination of information	320
121h Research in education of the handicapped	324
121k Regional education programs for handicapped persons	338
121m Incentive grants	301
121o Captioned films loan service for the deaf program	330
121p Educational media loan service for the handicapped program	331
121q Educational media research, production, distribution, and training	332
121r Centers for educational media and materials for the handicapped program	333
122a Indochina refugee children assistance	537
123 Bilingual education: General provisions	500
123a Bilingual education: Basic projects	501
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123c Bilingual education: State educational agency projects for coordinating technical assistance	503
123d Bilingual education: Support services projects	504
123e Bilingual education: Training projects	510
123f Bilingual education: School of education projects	514
123g Bilingual education: Desegregation support program	520
123h Bilingual education: Fellowship program	515
123i Bilingual education: Materials development projects	505
130 Library services, public library construction, and inter-library cooperation	770
131 College library resources program	773
132 Grants for training in librarianship	776
133 Library research and demonstration	777
134 Grants to State educational agencies for educational improvement, resources, and support	774
136 Strengthening research library resources	778
137 Educational information centers program	606
146 Modern foreign language and area studies	655
146a Citizen education for cultural understanding program	667
147 Procedures and criteria for resolving questions involving moral character or loyalty of applicants for and holders of NDEA Fellowships	Removed
148 Higher education programs in modern foreign language training and area studies	662

Old part number and title of regulation—45 CFR Part	New part number—34 CFR Part
149 Commissioner's recognition procedures for national accrediting bodies and State agencies	603
150 Law school clinical experience program	639
151 Territorial teacher training assistance program	790
153 Noncommercial educational broadcasting facilities program	Removed
154 Educational opportunity centers	644
155 Upward bound program	645
157 Special services for disadvantaged students program	646
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159 Talent search program	643
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161c Arts education program	753
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161l Biomedical sciences program	647
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162a National basic skills improvement	766
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163 Community schools and comprehensive community education program	440
163a Community education—State program	441
163b Community education—grants to local educational agencies	442
163c Community education—grants to public agencies and nonprofit private corporations	443
163d Community education—training grants to institutions of higher education	444
164 Capacity-building for statistical activities in State educational agencies	726
166 Adult education State programs—general provisions	425
166a State administered adult education programs	426
166b National adult education development and dissemination program and planning grants	431
166c Adult education programs for immigrants and Indochina refugees	432
168 General provisions relating to student assistance programs	668
169 Strengthening developing institutions program	624
170 Financial assistance for construction, reconstruction, or renovation of higher education facilities	617
172 Teacher Corps	793
173 Community service and continuing education programs	610
174 National direct student loan program	674
175 College work-study and job location and development program	675
176 Supplemental educational opportunity grant program	676
177 Guaranteed student loan program	682
178 Student consumer information services	686
178a Incentive grants for State student financial assistance training program	695
179 Graduate and professional study fellowships and institutional grants	648
180 Desegregation of public education	270
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186b Indian-controlled schools—Establishment	252
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186f Planning, pilot, and demonstration projects for Indian children	256
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186j Adult education research and development projects	260
186k Adult education surveys	261
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187 Indian fellowship program	263
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190 Basic educational opportunity grant program	690
191 Guidance and counseling	211
192 State student incentive grant program	692
193 National diffusion network program	796
194 Public service education program	649
195 Gifted and talented children's education program: General	345
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198 Training for higher education personnel	241
199a State postsecondary education commissions program-intrastate planning	605
1361 The State vocational rehabilitation program	361
1362 Project grants and other assistance in vocational rehabilitation	362
1369 Vending facility program for the blind on Federal and other property	369
1370 Evaluation standards	370
1400 General	700
1403 Eligibility and application for research grant assistance	701
1410 Miscellaneous requirements	702
1430 Experimental program for opportunities in advanced study and research in education	703
1440 Government in the Sunshine Act regulations	705
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1470 Education and work grants program	714
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1490 Education equity research grants program	718
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279 College housing programs administered by the Department of Education	614

Appendix A—Title 34 Part Numbers in Consecutive Order

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

Title 34.—*Subtitle A—Office of the Secretary, Department of Education*

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4 Service of Process	4
5 Availability of information to the public pursuant to Public Law 90-23	5
5b Privacy Act regulations	5b
6 Inventions and patents (general)	6
7 Employee inventions	7
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10 Departmental Fellowship Review Panel	10
11 Committee Management	11
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15 Relocation assistance and real property acquisition policies	15
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30 Claims collection	30
35 Tort claims against the Government	35
50 U.S. exchange visitor program—request for waiver of the two-year foreign residence requirement	50
63 Telecommunications Demonstration Program	63
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67 Student Loan Marketing Association—Issuance and Transfer of Common Stock	67
73 Standards of Conduct	73
74 Administration of Grants	74
100a Direct grant programs	75
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99 Privacy rights of parents and students	99

Subtitle B.—*Regulations of the Offices of the Department of Education*

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186j Adult education research and development projects	260
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Subtitle B.—*Regulations of the Offices of the Department of Education*—Continued

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November 21, 1980

Part VI

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research, Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, NIH, under the January 1980 NIH Guidelines for Research Involving Recombinant DNA Molecules (45 FR 6724).

EFFECTIVE DATE: November 21, 1981.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205. (301) 496–6051.

SUPPLEMENTARY INFORMATION: I am promulgating today several actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These were reviewed and recommended for approval by the Recombinant DNA Advisory Committee (RAC) at its meeting on September 25–26, 1980. In accordance with Section IV–E–1–b of the NIH Guidelines, I find that these actions comply with the Guidelines and present no significant risk to health or the environment.

This announcement provides background information on the actions including an analysis of correspondence concerning these actions received up to Octoiber 31, 1980.

Immediately following this announcement, there appears in the **Federal Register** a copy of revised NIH Guidelines for Research Involving Recombinant DNA Molecules. These revised Guidelines differ from the previous version of the Guidelines promulgated on January 29, 1980 (45 FR 6724) by incorporating within them: changes in the Guidelines which were recommended at the RAC meeting of March 6–7, 1980, and promulgated on April 14, 1980 (45 FR 25366); changes in the Guidelines which were recommended at the RAC meeting of June 5–6, 1980, and promulgated on July 29, 1980 (45 FR 50524); and changes in the Guidelines which were recommended at the RAC meeting of September 25–26, 1980 and which are discussed in this announcement.

I. Proposal To Introduce Genes Cloned in E. Coli K–12 into Arabidopsis Plants Through the Use of Agrobacterium Tumefaciens Carrying an E. Coli/Ti Hybrid Plasmid Vector

In a letter dated March 21, 1980, Dr. Donald J. Merlo of the University of Missouri-Columbia, requested an evaluation of the containment appropriate for the following protocol:

A. A hybrid vector, constructed from the *E. coli* plasmid pBR325 and the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, will be cloned in *E. coli* K–12.

B. *Arabidopsis* DNA will be introduced into the *E. coli*/Ti hybrid plasmid and clone in *E. coli* K–12.

C. The thiamine gene of *E. coli* will bed introduced into the *E. coli*/Ti vector carrying *Arabidopsis* DNA and cloned in *E. coli* K–12.

D. The hybrid plasmid into which *Arabidopsis* DNA and the thiamine gene have been ligated will be transformed into *Agrobacterium tumefaciens.*

E. *Agrobacterium tumefaciens* will be used to introduce the *E. coli*/Ti plasmid vector carrying the *E. coli* Thiamine gene and *Arabidopsis* DNA into *Arabidopsis* plants.

The RAC discussed Dr. Merlo's proposed protocol at the June 5–6, 1980 meeting. The RAC stated that the first three steps of the proposed experiment are covered by Section III–O of the Guidelines. It was agreed that steps D and E are covered by Appendix E and that P3 containment is indicated. However, as the proposed inserted sequences were well characterized, and as *Arabidopsis* DNA will be returned to *Arabidopsis*, the RAC suggested that containment for steps D and E could be lowered to P2.

Since this had not been published in the **Federal Register** for comment prior to the June 5–6, 1980, RAC meeting, this proposed lowering would, however, have to be published in the **Federal Register** for thirty days of comment and re-considered at the September 25–26, 1980 meeting.

In a letter dated July 22, 1980, Dr. Merlo described the proposed experiments in greater detail and requested that the containment conditions for steps D and E be lowered at least to P2 and preferably to Pl.

Dr. Merlo's proposal was published in the August 21, 1980, **Federal Register** (45 FR 55924). No comments were received during the thirty day comment period. The RAC, at its September 25–26, 1980 meeting, once again discussed this issue. A motion to approve the experiments at the P2 level of containment failed by a vote of 4 in favor, 9 opposed, with 3 abstentions. Then, by a vote of 12 in favor, 2 opposed, with 3 abstentions, the RAC recommended approval of the proposed experiments under Pl containment.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

II. Request for Certification of a Bacillus Stearothermophilus Derived Plasmid as the Vector Component of an HV1 Bacillus Subtilis Host-Vector System

Dr. David B. Wilson of Cornell University, in a letter dated May 12, 1980, requested certification of a *Bacillus stearothermophilus* derived plasmid, pAB124, as the vector component of an HV1 *Bacillus subtilis* host-vector system. The HV1-certified *Bacillus subtilis* strain RUB331 would be used as the host component.

The RAC discussed this proposal at the June 5–6, 1980 meeting. It was noted that *Bacillus stearothermophilus* is a non-pathogenic thermophile found in soil near hot springs, on compost, etc. In addition, plasmid pAB124 can be transformed into and maintained in *Bacillus subtilis* by natural physiological methods; pAB124 might, therefore, be considered a plasmid indigenous to *Bacillus subtilis.* The committee agreed that this proposal should be published in the **Federal Register** for comment and acted upon at the September 25–26, 1980 meeting.

Dr. Wilson's proposal was published for thirty days of comment in the August 21, 1980, **Federal Register** (45 FR 55925). No comments were received during this period. The RAC once again discussed the proposal at the September 25–26, 1980 meeting. The RAC recommended approval of the proposal by a vote of 18 in favor, none opposed.

I accept this recommendation, and text has been added to Appendix D of the Guidelines indicating this.

III. Request for Certification of a Bacillus Subtilis Strain as the Host Component of an HV2 Host-Vector System

On March 28, 1980, Dr. William Burke, Jr., of Arizona State University, requested certification of *Bacillus subtilis* strain ASB298 as the host component of an HV2 host-vector system. Dr. Burke's request appeared in the **Federal Register** of April 30, 1980 (45 FR 28907). No comments were received during this period. Additional information was submitted by Dr. Burke in a letter dated May 13, 1980.

Dr. Burke's proposal was evaluated by an *ad hoc* working group and subsequently presented to the RAC at the June 5–6, 1980 meeting. One RAC

reviewer said the working group was satisfied with the data presented, and said the single issue not addressed by Dr. Burke concerned the possibility of transfer of genetic information from ASB298 to other *Bacilli* by transformation. After some discussion of this point, the RAC deferred consideration of the proposal pending the submission of additional information on transformation frequencies in soil.

In an addendum dated September 8, 1980, Dr. Burke supplied information on the persistence of ASB298 in sterile soil, and on the frequency of genetic exchange in both soil and under optimized laboratory conditions between strain ASB298 and highly transformable *B. subtilis* strains.

A second notice concerning Dr. Burke's request subsequently appeared in the **Federal Register** of August 21, 1980 (45 FR 55925). No comments on this request were received by the NIH.

The RAC reconsidered this request at its September 25–26, 1980 meeting. On the basis of the strain's characteristics and the frequency of transformation in soil, the RAC recommended, by a vote of 14 in favor, none opposed, and 2 abstentions, that strain ASB298 be certified as the host component of a *B. subtilis* HV2 host-vector system. The RAC specified that ASB898 be used with plasmids certified as the vector components of HV1 *Bacillus subtilis* host-vector systems.

I accept this recommendation, and text has been added to Appendix D of the Guidelines indicating this.

IV. Proposed Amendments Of Section IV–E–2.

In a letter dated April 10, 1980, Dr. Irving Johnson of Eli Lilly and Company, submitted several proposals to amend the Guidelines. One of these proposals would have amended Section IV–E–2 to include the following language:

"Appropriate representatives of industry shall also be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

This proposal appeared in the **Federal Register** of April 30, 1980 (45 FR 28908). Two comments were received during the thirty day comment period. One commentator stated that:

"Any attempt to add industrial expertise to the committee * * * is to convert the committee to a self-appointed consensus standards organization."

Another commentator said, "We strongly object to (this) proposal * * *"

The RAC considered this proposal at the June 5–6, 1980 meeting. The committee agreed that, while it would be desirable to have a member with expertise in fermentation technology appointed to RAC, language specifying "representatives of industry" was inappropriate. The RAC agreed that the following amended language should be published for comment and considered at the September 1980 meeting:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

In a letter dated July 25, 1980, Dr. Johnson requested that his original language amending Section IV–E–2 be reconsidered at the September 1980 meeting. Dr. Johnson's proposed language and the language constructed by the RAC both appeared for public comment in the **Federal Register** of August 21, 1980 (45 FR 55928). One comment was received during the thirty day comment period:

"We have long held the view that the RAC membership should include persons versed in scientific aspects of industrial microbiology. As with the rest of the Committee, they should be selected for the excellence of their qualifications. Such persons would complement the present technical expertise of RAC by providing knowledge in areas of fermentation technology and large-scale industrial applications. This expertise differs from that of safety engineers and is concerned with basic biological problems of large-scale technology * * *"

The proposals to amend the language of Section IV–E–2 were discussed by the RAC at the September 25–26, 1980 meeting. At that time, the RAC again felt that appointing fermentation technology expertise to RAC was desirable, but that the proposal language specifying appointment of "representatives of industry" was inappropriate. By a vote of 13 in favor, 2 opposed, and 2 absentions, the RAC recommended approval of the following language:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

I accept the intent of the RAC recommendation that RAC "members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production." I do not believe that it is necessary to change the NIH Guidelines or the RAC Charter in order to assure that the intent of the RAC be honored. This can be accomplished through appointment of one or more individuals with appropriate expertise to fill vacancies that periodically occur in RAC membership.

V. Request to Clone Schizosaccharomyces Pombe DNA in Schizosaccharomyces Pombe Using Hybrid Plasmid Vectors

Dr. Benjamin Hall of the University of Washington requested permission to clone *Schizosaccharomyces pombe* DNA in *Schizosaccharomyces pombe* using approved HV1 *Saccharomyces cerevisiae/E. coli* hybrid plasmids as vectors. Dr. Hall pointed out that *Schizosaccharomyces pombe* has been the subject of intense genetic studies in the laboratory and has been used to ferment beverages for human consumption. He requested that P1 be established as the level of physical containment.

This proposal appeared in the August 21, 1980, **Federal Register** (45 FR 55929). No comments were received during the thirty day comment period.

The RAC discussed this proposal at its September 25–26, 1980 meeting, and recommended approval by a vote of 17 in favor, none opposed.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

VI. Proposed Amendment of Appendix E of the Guidelines

In a letter dated July 28, 1980, Dr. Fritz Reusser of The Upjohn Company requested that two sections of Appendix E be amended. These sections currently read as follows:

• "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

• "*Streptomyces coelicolor* can be used as a host for the cloning of DNA derived from *subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions, using as a vector any plasmid indigenous to *Streptomyces coelicolor* or able to replicate in that host by natural biological mechanisms."

The proposed revision would permit additional *Streptomyces* species to be utilized in these experiments. The species to be added are already included in Appendix A, Sublists C and D, as two groups of *Streptomycetes* known to exchange DNA by physiological means. Dr. Reusser noted that these species are not pathogenic for humans, animals or plants. The proposed revised sections of Appendix E would read as follows:

• "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning

of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

• "*Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

The proposed appeared in the **Federal Register** of August 21, 1980 (45 FR 55928). No comments were received concerning the proposal during the thirty day comment period. The RAC evaluated the proposal at the September 25–26, 1980 meeting, considering and voting separately on each of the two sections proposed to be amended.

With regard to the first section, by a vote of 14 in favor, none opposed, and 3 abstentions, the RAC recommended that the proposed amended language be adopted, i.e.:

• "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions."

I accept this recommendation, and this section of Appendix E has been so amended.

The RAC then considered the second section proposed to be amended. During the discussion it was suggested that the language be modified to specify the use of "nonconjugative" plasmid vectors. By a vote of 15 in favor, none opposed, and 2 abstentions, the RAC recommended approval of the following modified language:

• "*Streptomyces coelicolor S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any nonconjugative plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

Subsequent to the RAC meeting, two comments on this amended language were received by the NIH.

One commentator wrote that the proposal:

"* * *would have the effect of reversing a previous decision by the RAC and increasing the level of containment required for experiments that have been permitted under P2 conditions for some time. Thus, the amendment is a 'major action'; it does not seem appropriate that it be made part of the Guidelines in the absence of a 30-day period providing an opportunity for workers in the field and others to offer comments on it.

"It should also be noted that the concept of 'conjugative' versus 'non-conjugative' plasmids has been derived from enteric bacteria and may not apply to a wide variety of other bacterial species. For example, the mechanism for genetic exchange in *Streptomyces* species is not fully understood; it may be a consequence of hyphal fusion that permits transfer of plasmid and chromosomal genes. If this is true, it may never be possible to isolate a 'non-conjugative' plasmid *per se*' * *'"

"Since all of the *Streptomyces* species that exchange genetic information with *S. coelicolor* are free-living non-pathogenic soil organisms—and since the change in the Guidelines originally proposed under Action 916 involved genes from only non-pathogenic, well-characterized donor bacteria, I urge your approval of the original proposal without the amendment."

The other commentator wrote:

"I would like to see this amended proposal published for public comment and put to a second vote at the next RAC meeting before you approve this action. The amended proposal failed to receive sufficient consideration of the following points. First of all, in no previous actions regarding *Streptomyces* species was any consideration given during the deliberations to establish levels of physical containment as to whether the vectors were capable of mediating exchange of genetic information. Therefore, this action by the RAC is more restrictive than previous actions and, in my opinion, is inconsistent with the intent of the RAC. In fact, experiments can be carried out at P2 levels of containment in which *B. subtilis, E. coli* K–12, or *S. aureus* vector DNA is cloned into *S. coelicolor* hosts using vectors capable of self-mediated exchange in accordance with Appendix E of the current NIH Guidelines.

"Second of all, the use of the term 'non-conjugative' is inappropriate because the actinomycetes do not exchange genetic information by the process of conjugation as it is known for eubacteria. Rather actinomycetes exchange genetic information by heterokaryosis. In some experiments, the frequency of genetic exchange can be altered by the presence of plasmids and some plasmids can mediate their own transfer to new hosts.

"I feel that to restrict cloning in the actinomycetes to using 'non-conjugative' or non-self-transmissible vectors would be unduly harsh and would severely restrict research with this valuable group of organisms. Considering the level of potential hazard (which I consider minimal) and the potential benefit (which I view as considerable), P2 containment is more than sufficient protection regardless of the vectors employed."

Taking into consideration these comments, I am deleting the requirement for use of nonconjugative plasmids in these systems. If anyone wishes to propose a requirement for use of nonconjugative plasmids in these systems, it will be published for comment in the **Federal Register** as a proposed major action for consideration at a future RAC meeting.

Accordingly, the relevant section of Appendix E has been amended to read as follows:

• "*Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

VII. Request for Consideration of a Proposal to Clone the Tox A Gene of Staphylococcus Aureus

In a memorandum dated July 29, 1980, Drs. Alan G. Barbour and Leonard W. Mayer of the Laboratory of Molecular Structure and Functions, Rocky Mountain Laboratory, National Institute of Allergy and Infectious Dieases, requested an assessment of the containment levels appropriate for cloning the *Staphylococcus aureus* pyrogenic exotoxin type A (Tox A). Drs. Barbour and Mayer indicated that they would prefer to clone the Tox A gene in an HV2 *Bacillus subtilis* host-vector system (since one of the activities of Tox A is enhancement of the toxicity of *E. coli* endotoxin) but, if no HV2 *B. subtilis* host-vector system were available, they requested permission to clone the Tox A gene in an EK2 *E. coli* K–12 host-vector system.

The RAC took this request under consideration at the September 25–26, 1980 meeting. The major determination for the RAC to make was whether Tox A is a "potent toxin" under Section I–D–2 of the Guidelines. It was noted that the lethality of Tox A for animals is not great. The RAC by a vote of 17 in favor, none opposed, recommended that the cloning of the Tox A gene be permitted under P3 containment with either an HV2 *B. subtilis* or an EK2 *E. coli* K–12 host-vector system.

The scientists who submitted this request, noting that one of the activities of Tox A is enhancement of the toxicity of *E. coli* endotoxin, said they preferred to work in *B. subtilis* rather than *E. coli*

if an HV2 *B. subtilis* host-vector system were available. Since an HV2 *B. subtilis* system is in fact now certified (see item III of this announcement) I am approving the cloning of the *Staphylococcus aureus* Tox A gene in an HV2 *Bacillus subtilis* host-vector system at P3 containment. Text has been added to Appendix E indicating this.

VIII. Request for Permission to Transform Chlamydomonas Reinhardi With E. Coli/Saccraromyces Cerevisiae Plasmids.

The RAC at its September 25–26, 1980 meeting considered similar requests from Dr. John Carbon of the University of California, Santa Barbara, and Dr. Stephen Howell of the University of California, San Diego, to introduce *E. coli-Saccharomyces cerevisiae* hybrid plasmids containing defined DNA segments into *Chlamydomonas reinhardi* under P2 conditions. The host is a eukaryotic, unicellular photosynthetic green algae. *C. reinhardi* is non-pathogenic, produces no known toxin, and is not known to exchange genetic information with other organisms.

This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the thirty day period for comment.

A motion to approve these experiments at the P2 level of containment was passed by a vote of 16 in favor, none opposed, and one absention.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

IX. Request For Permission To Transform Candida Albicans With E. Coli-S. Cerevisiae Plasmid.

The following notice appeared in the **Federal Register** of August 21, 1980:

Request for permission to transform Candida albicans with E. coli-S. cerevisiae plasimids. Dr. P. T. Magee of Michigan State University, and Dr. W. LaJean Chaffin of Texas Tech University, have requested consideration of the appropriate containment level for the return of *Candida albicans* DNA to the host of origin. The *Candida albicans* DNA will be cloned in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing a hybrid plasmid vector derived from *E. coli* K–12–S. *cerevisiae* or the yeast 2 micron plasmid.

During the thirty day comment period, no responses were received.

The RAC discussed this proposal at its September 25–26, 1980 meeting. It was noted that *Candida albicans* is a normal inhabitant of the flora of man. It can be a pathogen in compromised individuals but does not produce a toxin. This is basically a return of DNA to host of origin type of experiment, with the intermediate host being either *E. coli* K–12 or *Saccharomyces cerevisiae.*

The RAC by a vote of 14 in favor, 1 opposed, and 3 absentions recommeded approval of this proposal at the P2 level of containment.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

X. Proposal To Transform Haemophilus Influenzae With E. Coli/H. Influenzae Hybrid Plasmid

The RAC at its September 25–26, 1980 meeting considered a proposal from Dr. Hamilton Smith of the John Hopkins University to insert an *E. coli* Tn10 tet^R gene into a naturally-occurring *Haemophilus* plasmid and to use the hybrid plasmid to transform *H. influenzae* Rd, a nonpathogenic strain. It was noted that a tetracycline resistance gene found naturally in *Haemophilus* is genetically related to the Tn10 tet^R gene of *E. coli.* A motion to approve these experiments at the P1 level of containment was passed by a vote of 12 in favor, none opposed, with 7 abstentions.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XI. Proposed Exemption For Streptococcus Sanguis And Streptococcus Pneumoniae

A request submitted by Dr. Walter Guild of Duke University Medical Center that *Streptococcus sanguis* and *Streptococcus pneumoniae* be considered as natural exchangers of DNA under the exemption category of Section I–E–4 and Appendix A of the Guidelines was considered by the RAC. This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the 30 day period for comment prior to the September 25–26, 1980 meeting.

The evidence presented by the investigator demonstrated that these organisms exhange genetic material in both directions by the natural process of transformation. The RAC recommended by a vote of 16 in favor, none opposed, and 1 absention that a new sublist be added to Appendix A of the Guidelines exempting recombinant DNA experiments between *Streptococcus sanguis* and *Streptococcus pneumoniae.*

I accept this recommendation and these two organisms have been added as sublist F of Appendix A.

XII. Request For Permission To Incorporate Recombinant DNA In Zymomonas Mobilis

The RAC considered a request from Drs. B. Montenecourt and D. Eveleigh of Rutgers University to permit the cloning of DNA derived from *Pseudomonas* strains that are non-pathogenic to animals or plants in an *E. coli* K–12 host, followed by transfer of the recombinant DNA into *Zymomonas mobilis.*

This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the 30 day comment period.

The RAC by a vote of 17 in favor, none opposed and with no abstentions recommended approval at the P2 level of containment for the proposed experiments.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XIII. Request To Transform Protoplasts of Streptosporangium With Recombinant DNA

The RAC at its September 26, 1980 meeting considered a proposal to transform protoplasts of *Streptosporangium* with a hybrid plasmid containing pBR322 plus a *Streptosporangium* plasmid into which have been incorporated specified DNA segments from *Streptomyces* species or an HV1 approved *Bacillus subtilis* cloning vector.

It was noted that members of the *Streptosporangium* genera are soil bacteria and have never been implicated in any human, animal, or plant diseases. Further, these nutritionally fastidious organisms have not been reported to produce toxins harmful to humans.

The motion to approve these experiments at the P2 level of containment was passed by a vote of 17 in favor, none opposed, and 1 abstention.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XIV. Proposed Revision of Subsections of Section III–C–1–e

A notice appeared in the **Federal Register** of January 31, 1980 concerning proposed revision of Section III–C–1–e, and its subsections. It was recommended that Section III–C–1–e, III–C–1–e–(1), III–C–1–e–(1)–(a), and III–C–1–e–(1)–(b), of the Guidelines be changed and that a new Section III–C–1–e–(1)–(c) be added. Section III–C–1–e–(2) would remain unchanged. The RAC, at its March 6–7, 1980 meeting, recommended adoption of Section III–C–

1–e, III–C–1–e–(1), and III–C–1–e–(1)–(a) as published in the **Federal Register** of January 31, 1980, with certain modifications in Section III–C–1–e–(1)–(a).

The Director, NIH, accepted this recommendation and promulgated the following sections in the **Federal Register** of April 14, 1980:

"III–C–1–e. All Viral Vectors.

"III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

"III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus [all viruses form a single Family (36) being considered identical (50)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of the genome."

At its March 6–7, 1980 meeting, the RAC voted to defer consideration until the June 5–6, 1980 meeting of the new Sections III–C–1–e–(1)–(b) and III–C–1–e–(1)–(c) as proposed in the **Federal Register** of January 31, 1980, and requested that a working group develop additional information. Accordingly, a working group met on May 13, 1980, during the annual meeting of the American Society for Microbiology in Miami Beach, Florida. The report of the working group was considered briefly at the June 5–6, 1980 RAC meeting when it was decided that it would be considered again by the RAC at its September 25–26, 1980 meeting.

The Working Group discussed the question of the appropriate containment conditions for experiments involving recombinant DNA molecules containing less than two-thirds of the genome of any eukaryotic virus which may be rescued with helper virus. On the basis of the consensus of the virologists, the following recommendation was proposed, as a revision of Section III–C–1–e–(1)–(b) of the Guidelines:

"III–C–1–e–(1)–(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents (1)."

This proposal was published for comment in the **Federal Register** of August 21, 1980. During the thirty day comment period no responses were received.

At the September 25–26, 1980 meeting, the RAC discussed this proposal again. Some members of the committee expressed concern whether the rescue of a defective recombinant virus with helper virus could result in the formation of a virus with an altered host specificity or increased pathogenicity. It was noted that the working group of virologists previously discussed this point, and reached the conclusion that the recombinant virus would pose no greater biohazard than the wild type virus used as a helper. The consensus of the working group was that the level of containment required for rescue of the recombinant virus should correspond to the same level of biohazard as the helper virus as determined by the CDC classification.

The motion to accept the proposed revision of subsection III–C–1–e–(1)–(b) was passed by a vote of 10 in favor, 5 opposed, and 1 abstention.

I accept this recommendation, and Section III–C–1–e–(1)–(b) has been so modified. This modification justifies two further changes in the Guidelines. First, new text has been added to Section III–C–1 to advise the reader of the relationship of the subsections of Sections III–C–1–a, III–C–1–b, III–C–1–c, and III–C–1–d of the Guidelines to the subsections of Section III–C–1–e. Also, Table IV of the Guidelines has been eliminated.

XV. Proposed Containment For Cloning Between Members of the Actinomycetes Group

Dr. Dean Taylor of the Smith Kline and French Laboratories, proposed that the third entry in Appendix E of the Guidelines be modified to read:

P2 physical containment shall be used for DNA recombinants produced between members of the *Actinomycetes* group except for those species which are known to be pathogenic for man, animals, or plants.

This proposal was made previously by the RAC Working Group on Prokaryotic Host-Vectors Other Than *E. coli* and appeared in the **Federal Register**, April 13, 1979 (44 FR 22316). The RAC considered the proposal at its May 21–23, 1979 meeting and recommended to restrict this so that it did not include the entire *Actinomycetes* group but rather only the genera *Streptomyces* and *Micromonospora*. The Director, NIH, accepted this recommendation and the action was published in the **Federal Register**, July 20, 1979 (44 FR 42916), and appears as the third entry in Appendix E of the Guidelines.

This proposal was published for comment in the **Federal Register** of August 21, 1980. During the 30 day comment period, no comments were received.

During the RAC discussion of this proposal it was noted that the family of *Actinomycetes* include many genera that are not pathogenic for man, animals, or plants. The microorganisms in this group are mainly found in soil, and are of medical and industrial importance. They produce ninety percent of the antibiotics used in medicine. Although some members of the group are parasitic, most do not cause disease, or are marginal pathogens.

A motion to restrict the proposal to members of the *Actinomycetes* group which are known not to be pathogenic for man, animals, or plants, failed by a vote of 3 in favor, 11 opposed, with 3 abstentions.

A motion to accept the proposal as published in the **Federal Register** on August 21, 1980, passed by a vote of 16 in favor, 1 opposed, with 1 abstention.

I accept this recommendation, and the third entry in Appendix E of the Guidelines has been so amended.

XVI. Changes in Registration Requirements

Dr. Maxine Singer, National Cancer institute, National Institutes of Health, proposed a series of changes in the administrative requirements specified by the Guidelines. The proposal would elimnate NIH review, registration, and approval for all experiments assigned containment conditions in the Guidelines.

In submitting the proposal, Dr. Singer stated:

When the Guidelines were first promulgated, many arguments appeared to dictate a complex system of review and approval prior to the initiation of experiments. Regardless of how one views the wisdom of the earlier decisions, the multi-level system with its emphasis on central review at the NIH is now clearly unnecessary, inhibitory, expensive, and conterproductive in relation to the respect accorded the containment recommendations. By now, Institutional Biosafety Committees have accumulated sufficient expeience with and knowledge of the Guidelines to operate as independent review groups. Safety Officers now function in many research institutions. Furthermore, the good laboratory practices mandated by the Guidelines have become routine practice in many laboratories. Indeed, confidence in the efficiacy of Guidelines has been based primarily on compliance by individual investiators within their own laboratories. The administrative changes that accompanied the revised containment levels for experiments with *E. coli* K–12 and *S. cerevisiae* earlier this year recognized that central review and approval were no longer necessaryily desirable or useful. The present proposal is an extension of that idea.

In brief, the proposal eliminates central review, registration, and approval for all

experiments assigned containment conditions in the Guidelines. Investigators would be required to notify their Institutional Biosafety Committees prior to the initiation of experiments and those committees would be responsible for reviewing the registration documents for consistency with the provisions of the Guidelines and advising the investigators of necessary changes. No Memoranda of Understanding would be required. IBCs and investigators would still be expected to petition the ORDA regarding experiments not explicitly covered by the Guidelines, experiments requiring case-by-case review and experiments involving exceptions to the provisions (or prohibitions). The NIH and the RAC would function as policy making elements with responsibility to change the Guidelines as required, to evaluate containment requirements for experiments not explicitly covered by the Guidelines, and for consideration of exceptions.

Seven years have passed since the scientific community first raised questions regarding recombinant DNA experiments. The ignorance of those early years has been supplanted with a wealth of experience and information. Just as the early stringent Guidelines were promptly adopted in response to the ignorance, we must now respond just as promptly to the current more realistic appraisals.

The proposed revisions were published in the **Federal Register** of August 21, 1980, for comment, as Item 8 of the notice. Specific changes were proposed in many different places in the Guidelines, specified under subheadings "A" through "X" within Item 8.

Seventeen letters were received commenting on the proposal. Sixteen commentators supported its adoption. One commentator stated:

Maxine Singer's initiative (**Federal Register**, August 21, 1980) to have the NIH Guidelines fall primarily under local control is both wise and timely. Decisions about scientific research are best left to the investigtors both for efficiency and as a matter of fundamental principle. Only in exigency, should this ideal be violated. Perhaps we've passed through such an occasion with R–DNA research. However, it is now the time to return to the more normal situation. Since work with recombinant DNA has proven to be very safe and very important, dual review at the national and local levels serves no good purpose.

As one involved from the beginning in the R–DNA issue, I've always felt that the 'Guidelines' should be guidelines; they turned into regulations. With the proposed change, they will revert and also the unfortunate quasi-regulatory role that the NIH has had to play will begin to disappear.

Another commentator said:

I think the IBC mechanism has proven its effectiveness in interpreting and enforcing the letter and intent of the Guidelines governing recombinant DNA research. I do not see how the practices of submission, obtaining and recording, etc., of MUA's particularly the requirements for annual submissions of MUA's for each continuing NIH grant or for applications for new grants, contributes to the safety of research. An updated statement of work in progress from each investigator to the IBC's would be significantly simpler to administer and would ensure as much real safety as the present system.

Another observed:

I agree with her that the function of review, registration, and monitoring of research workers falling into categories explicitly mentioned in the Guidelines can be effectively administered by the local Institutional Biosafety Committees. This would reduce the workload for ORDA allowing it to spend more time determining policy and revising the Guidelines according to requests or to new data. It would simultaneously ease the bureaucratic workload for the researcher without jeopardizing the effectiveness of the Guidelines. Not only are the procedures described in the Guidelines now standard practice among most laboratories, as pointed out by Dr. Singer, but I feel that the local Institutional Biosafety Committees are in much better position to evaluate compliance with the Guidelines. Because of their past experience with the Guidelines, I feel that these committees are ideally suited to take over this important administrative role.

One commentator made the following observation about Institutional Biosafety Committees:

Institutional Biosafety Committees clearly seem able to operate as independent review groups, and the laboratory practices set forth in the Guidelines have now become part of the standard operating procedures of laboratories working in the field. In other fields of biological research, safety procedures are implemented entirely at the local level, even when known biohazards are involved. It is no longer necessary to have a unique multi-level system in an area where seven years of extensive experience has shown the absence of a unique hazard.

Another commentator said the following about central review:

Elimination of central review at NIH for experiments classified in the Guidelines will save a great deal of time for both the investigator and the reviewers at NIH. I believe the experience of the past six years justifies a change toward an administrative arrangement long successfully practiced in the handling of proven microbial pathogens, namely national guidelines enforced by local biosafety committees.

One commentator made the following observation about the current system of NIH review:

The present complex system of review on both local and Federal levels is no longer necessary. It is wasteful of time, effort, and money. It is, in fact, counterproductive because bureaucratic requirements seen by investigators to be clearly unnecessary lead to disrespect for regulations that should be respected. Institutional Biosafety Committees should, in my opinion, be fully capable of monitoring laboratory practices and containment levels specified by the Guidelines.

Another letter included the following remark:

I strongly endorse the proposed changes because I believe that the risks of this research are now clearly minimal and because the bureaucracy and consequent wasted time are truly detrimental to progress in an area that promises to be of great benefit to mankind.

The Chairman of one IBC reporting the unanimous endorsement of his committee stated:

We feel strongly that safety is solely a function of the effectiveness of the local institutional practices, on the part of the PI's and the IBC, in complying with and enforcing the Guidelines. The submission of MUAs adds nothing but expensive and time-consuming paperwork.

The one letter against the proposal stated the following:

At present, we do not believe that there are good reasons for changing the registration requirements. Although present procedures demand some extra paperwork, they permit centralized keeping of files which could be of significant use in reviewing the extent of work on recombinant DNA and its possible hazards. Somebody should know what is going on.

The RAC discussed the proposal at length at its September 25–26, 1980 meeting. Dr. Singer, who attended this portion of the meeting, summarized the proposal and presented her arguments for adopting it. It was noted that the proposal has two major aspects, which could be acted upon separately. The first aspect is that it would eliminate NIH review of protocols for which containment levels are specified by the Guidelines. The second aspect is that the proposal would eliminate the requirement for pre-review by the local IBC prior to initiation of all experiments for which containment levels are specified by the Guidelines (Prior review is already not required for most experiments). Some members of the RAC felt that adoption of the proposal should be delayed until a broad-based survey of the functioning of IBCs is completed. Some members of the RAC felt that pre-review of all experiments by the IBC should not be eliminated at the present time. The RAC then voted separately on a four-part motion proposed by Dr. Gottesman.

The RAC voted 15 in favor, 3 opposed, with no abstentions, to eliminate the requirement for NIH review of IBC decisions on any experiments for which containment levels are specified in the Guidelines.

The RAC voted 12 in favor, 5 opposed, with 1 abstention, to defer consideration

of eliminating pre-review of experiments by the IBCs until the frequency of principal investigator error in selecting the appropriate containment levels has been determined.

The RAC voted 17 in favor, none opposed, with 1 abstention, that IBCs keep records of recombinant DNA research done in their institution, including a record of the frequency of errors in classificaion of experiments by the principal investigator.

The RAC voted 15 in favor, 3 opposed, with no abstentions, that IBCs no longer need register with NIH recombinant DNA experiments for which containment levels are specified in the Guidelines.

I accept these recommendations.

The four-part motion passed by the RAC indicated the intent of the RAC to recomment acceptance of certain concepts in the proposal by Maxine Singer (i.e., elimination of the requirement for IBC registration with, and NIH review of, experiments for which the containment levels are specified in the Guidelines), but to defer recommendation of other concepts (i.e., the proposal to eliminate pre-review by the IBC for these experiments).

As noted earlier, the proposal by Maxine Singer published as Item 8 in the **Federal Register** of August 21, 1980, consisted of proposed changes in many different places of the Guidelines, specified under subheadings "A" to "X". Following the RAC meeting, I asked a four-person group to revise these proposed changes in order to translate the four-part general motion of the RAC into specific Guideline changes. The group (consisting of Dr. Bernard Talbot, my Special Assistant, Dr. William Gartland, Director of the Office of Recombinant DNA Activities, Dr. Maxine Singer, originator of the proposal, and Dr. Susan Gottesman, RAC member and originator of the four-part motion passed by the RAC) unanimously agreed on wording which translates the intent of the RAC into specific changes in the Guidelines. I have accepted their recommendations.

The result is that some of the changes "A" through "X" originally proposed by Dr. Singer have been accepted as proposed; some have been rejected, thereby leaving the relevant portions of the Guidelines unchanged; and some have been further modified so that particular sections now are different from both the Guidelines prior to the Singer proposal and from the Singer proposal.

Specifically, the sections where the changes proposed by Dr. Singer have been accepted are: "E"—Deletion of Section IV–C–3; "F"—Deletion of Sections IV–D–1–C and IV–D–1–C–(1) through IV–D–1–C(5); "G"—Deletion of Section IV–D–1–d; "H"—Amendment of Section IV–D–2–f; "I"—Amendment of Section IV–D–2–h; "K"—Amendment of Section IV–D–3–b; "L"—Amendment of Section IV–D–3–f; "P"—Amendment of Section IV–D–5–c–(3); "U"—Deletion of Section IV–E–3–b, IV–E–3–c–(1), IV–E–3–c–(2), and IV–E–3–c–(3); "V"—Deletion of Section IV–E–4–a; and "W"—Deletion of Sections IV–F–1 and IV–F–2.

The proposed changes which have been rejected thus leaving the Guidelines as they were previous to the Singer proposal are: "Q"—Heading of Section IV–D–5–d; "R"—Heading of Section IV–D–5–e; and "T"—Proposed deletion of Section IV–E–1–b–(3)–(e).

The proposed changes which have been further modified so that the sections now read differently from the Guidelines prior to the Singer proposal and from the Singer proposal are: "A"—Section III; "B"—Section III–0; "C"—Last sentence of Section III–A–3–a; "D"—Last sentence of Section III–A–3–b; "J"—Section IV–D–3–a; "M"—Section IV–D–5–a–(1); "N"—Section IV–D–5–b–(4); and "O"—Section IV–E–5–b–(5).

In addition, Sections IV–F–3, IV–F–4, and VI–C, dealing with registration, have been eliminated, as has the proposed Section IV–D–5–e–(6).

One consequence of these changes is that MUAs need no longer be filed with NIH and the term "MUA" has been deleted from the Guidelines.

One part of the RAC four-part motion called for IBCs to keep records of recombinant DNA research done in their institution, including a record of the frequency of errors in classification of experiments by the principal investigator. This requirement for record keeping will be specified in the revision of the Administrative Practice Supplement to the NIH Guidelines to be issued in November 1980.

During the RAC discussion, the concept of requiring the IBCs to report annually to NIH on all recombinant DNA research being done at the institution was rejected. NIH is sponsoring a meeting of IBC Chairmen on November 24–25, 1980. The issue of possibly reporting annually to NIH will be discussed at that meeting. Following that discussion, I will again review this issue.

It should be emphasized that NIH remains responsible for specifying containment conditions for all experiments not explicitly covered by the Guidelines. This includes experiments requiring case-by-case review and exceptions to the provisions or prohibitions of the Guidelines. Principal investigators must petition NIH for consideration of such proposed experiments. NIH will follow existing procedures in such cases and will notify the principal investigators as before. No such experiments are to be approved by the IBCs until containment conditions have been set by the NIH. No such experiments are to be initiated by PIs until appropriate registration documents have been submitted to and approved by the IBC. The registration documents should include the NIH statement of containment conditions.

XVII. Procedures For Review of Large-Scale Experiments

Section I–D–6 of the Guidelines prohibits "large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNA's, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established."

Section IV–E–1–b–(3)–(d) of the Guidelines states that the Director, NIH, is responsible for "authorizing under procedures specified by the RAC, large-scale experiments (i.e., more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Part VI of the Guidelines, "Voluntary Compliance," encourages institutions not otherwise covered by the Guidelines to follow the standards and procedures set forth in the Guidelines.

At its September 1979 meeting, the RAC adopted the following procedures to be followed by applicants proposing to exceed the 10-liter limit:

"Application Procedures for Large-Scale Recombinant DNA Experiments

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10-liter limit.

"c. A specification of the total volume of the fermenter to be used.

"d. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"e. A description of the applicant's laboratory practices, containment equipment, and facilities relevant to the containment of large volumes of culture.

"f. Evidence of the applicant's or applicant institution's previous experience in handling large volumes of culture. Applicants should exhibit knowledge of state-of-the-art procedures for working with large volumes of microorganisms.

"g. A description of procedures to be employed for the inactivation and disposal of large volumes of culture.

"h. A description of procedures for containing and inactivating accidental spills, should they occur.

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

At recent RAC meetings, there have been extensive discussions of the role of the RAC and NIH in the review of large-scale proposals submitted by industry. (Minutes of RAC meetings are available from ORDA.) At the June 1980 meeting, the RAC passed a motion by a vote of seventeen to zero with one abstention that the following proposal be published in the **Federal Register** for consideration at the September 1980 meeting:

"The following procedures should be adopted for approval of requests to grow greater than 10 liters of organisms containing recombinant DNA. The RAC will determine if a given recombinant DNA-containing strain is rigorously characterized and the absence of harmful sequences established. Such a determination shall include specification of the containment level (P–LS). These determinations should not in any way be construed as RAC certification of safe laboratory procedures for industry scale-up. Adherence to the specified containment conditions is the responsibility of the local IBC."

This proposal was published for comment in the **Federal Register** of August 21, 1980. There it was pointed out that if the proposal were accepted, it would have the effect of changing the application procedures to read as follows:

"Application Procedures for Large-Scale Recombinant DNA Experiments

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10-liter limit.

"c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"d. Specification of the P–LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules.* (**Federal Register,** April 11, 1980).

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

During the comment period, two comments were received.

One commentator stated:

> I regret that the RAC wishes to terminate its reviews of engineering plans for proposed private-sector DNA operations.

Another letter stated:

> We agree with the RAC proposal passed in June 1980, to exclude regulatory functions dealing with industrial scale-up. We believe that the current mission of the RAC is appropriate and that its present constitution, representing scientific and public interests, is not well suited for a regulatory role. Other bodies of the federal government already have the mandate to carry out regulatory functions and should acquire necessary resources and expertise.

The proposal was discussed at length at the September 25–26, 1980 RAC meeting.

Dr. Krimsky said that although at previous RAC meetings he had argued strongly for proposals like this, he had now changed his mind, because he had come to realize that such pre-review as the RAC has been performing is unique, and that no other agency would conduct such a review. He proposed, as an alternative proposal, that there be established a subcommittee of the RAC made up of some members of the RAC and some members of NIH staff with expertise in facilities and technologies, and that the subcommittee request representation from the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the Center for Disease Control (CDC), and the Environmental Protection Agency (EPA). In this proposal, the subcommittee would review engineering and technology, and its review would be transmitted directly to the Director, NIH. After discussion, this alternative motion was withdrawn from consideration for the time being, with the understanding that it would be reconsidered later in the meeting.

During further discussion of the proposal as published in the **Federal Register** of August 21, 1980, Dr. Fedoroff indicated her support for eliminating RAC review of the details of physical containment for individual large-scle proposals, as is already the case for small-scale research. Dr. King indicated her support of the proposal as an acceptable compromise.

Following further discussion, the RAC voted 12 in favor, 5 opposed, with one abstention, to adopt the proposal as published in the **Federal Register** of August 21, 1980. I accept this recommendation and procedures for its implementation are published at the end of this section.

Later in the meeting, Dr. Krimsky introduced the following motion to establish a large-scale review subcommittee:

"An industrial review subcommittee of the RAC shall be established with the responsibility for advising the Director on procedures and facilities design pertaining to applications for large-scale operations.

"After the full RAC has reviewed the biological containment requirements for

a large-scale proposal, the subcommittee shall examine the applicant's plans for large-scale operations and issue recommendations to the Director on plant design, health surveillance and environmental monitoring. The Director shall advise institutions of recommended design parameters and operational procedures. The determination shall not be construed as NIH certification of industrial operations.

"The subcommittee shall invite participation from NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA."

Dr. Fedoroff expressed concern about delays if first the full RAC and then subsequently a subcommittee were to be involved in the review process. Others agreed. Dr. Gottesman said that she was opposed to continuation of review of equipment design in individual applications by either the full RAC or subcommittee. Dr. Logan of OSHA, speaking in behalf of the proposal, said that the delays need not be serious and that such subcommittee review would be beneficial. He said that OSHA does not have the legal authority to conduct pre-review of applications. Dr. Campbell said that while he opposed a subcommittee doing pre-review of individual applications, he favored a subcommittee to prepare future revisions of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (i.e., the definitions of Pl-LS, etc.) and to monitor how well the system is working. Dr. Gottesman proposed an amendment to Dr. Krimsky's motion to establish the subcommittee with these functions, but to do no pre-review of individual applications. An amendment to this amendment proposed by Dr. Krimsky to include subcommittee pre-review of individual applications failed by a vote of 3 in favor, 15 opposed, with no abstentions. After further amendments were adopted, the RAC passed the following motion by a vote of 15 in favor, 2 opposed, with 1 abstention:

"A large-scale review subcommittee of the RAC shall be established with the responsibility for advising the RAC on procedures and facilities design pertaining to large-scale operations, and on the performance of local IBCs in reviewing physical containment facilities.

"The subcommittee shall invite participation from NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA."

I agree with the establishment of a group to report to the RAC on recommendations for future revisions of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (i.e., the definitions of P1-LS, etc.) and on the performance of local IBCs in reviewing large-scale physical containment facilities. A Working Group of the RAC was established at the May 1979 meeting to develop the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules. These recommendations were reviewed at the December 1979 and March 1980 RAC Meetings before being published in the **Federal Register** on April 11, 1980. Establishing a new "subcommittee" of the RAC to deal with this issue would require a formal change in the RAC Charter. Therefore, I favor reconstitution of the current RAC "Working Group" for this purpose. As noted above (see item IV of this announcement), the RAC has recommended that RAC "members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production." I expect that an individual with these qualifications will shortly be appointed. When this happens, I will ask that the appointee consult with the RAC Chairman and that together they decide on which additional RAC members should be appointed to the reconstituted Large-Scale Review Working Group. The RAC recommended that participation be invited from "NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA." Ideally, all Federal agencies with representatives on the RAC should be invited to participate in the deliberations of the Working Group.

In accordance with the recommendation of the RAC, the Working Group will not be involved in pre-review of individual applications. To assist in its function of advising the RAC on the performance of local IBCs in reviewing physical containment facilities and on future revisions of the Large-Scale Physical Containment Recommendations, the Working Group may request information from individual companies. Since NIH is not a regulatory agency, the intent of any such information collection will be fact-finding, to help in development of general recommendations from the Working Group to the RAC, and not for purposes of regulatory actions directed at individual companies.

In response to recommendations of the RAC, the revised application procedures for large-scale proposals are now promulgated as final, i.e.:

"Application Procedures for Large-Scale Recombinant DNA Experiments.

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The registration document submitted to the local Institutional Biosafety Committee. This should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10–liter limit.

"c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"d. Specification of the P–LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules. (Federal Register,* April 11, 1980).

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules and to the extent permitted by law.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

These application procedures are identical to those published for comment on August 21, 1980, except for the elimination of the term "Memorandum of Understanding and Agreement," its replacement by the term "registration document," and addition of the clause "and to the extent permitted by law" in paragraph 5. As discussed above (in item XVI of this announcement), the term "Memorandum of Understanding and Agreement" has been eliminated from the Guidelines. The revised Guidelines, in Section III, describe the

required contents of a registration document.

The revised "Application Procedures for Large-Scale Recombinant DNA Experiments" differ from the previous version (adopted at the September 1979 RAC meeting) in requiring that the application specify a "P–LS" level at which the work will be done, rather than requiring individual details of physcial containment. In other respects the Application Procedures adopted at the September 1979 RAC meeting remain identical in the revised Application Procedures promulgated today. As noted in the minutes of the September 6–7, 1979 RAC meeting, review of each large-scale proposal by the RAC, "might be at a meeting, but it also might be through mail ballot." This option will be retained.

Additional Announcements of the Director, NIH

Section IV-E-1-b-(3)-(d) of the Guidelines gives responsibility to the Director, NIH, for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Accordingly, several requests for authorization to culture, on a large-scale, recombinant DNA host-vector systems have been received and reviewed by the NIH.

I. Genentech, Inc.

On November 4, 1980, the Director, NIH, on the recommendation of the RAC, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 host-vector systems containing plasmids into which have been ligated cDNA coding for human leukocyte interferons.

This request was approved with the understanding that Genentech, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site.

The principal investigators are Drs. Michael Ross and Norm S. C. Lin. The work is to be done at the Pl–LS level of containment at the research and development facility at 460 Point San Bruno Boulevard, South San Francisco, California 94080.

II. Burns-Biotec Laboratories, Inc.

On November 4, 1980, the Director, NIH, approved requests from Burns-Biotec Laboratories, Inc., a wholly-owned subsidiary of Schering Corporation, for large-scale culture of EK1 host-vector systems containing plasmids coding for human leukocyte interferon, and certain derivatives thereof, in a 1000 liter fermentor (up to 750 liter working volume) at the Pl–LS level of containment.

The request was approved with the understanding that Burns-Biotec Laboratories, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site. The principal investigator for this project is Dr. Donald E. Baldwin. The large-scale growth of the organisms is to be carried out at plant facilities located in Elkhorn, Nebraska.

Dated: November 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because of the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

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Part VII

Department of Health and Human Services

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules, November 1980

HEALTH AND HUMAN SERVICES DEPARTMENT

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules, November 1980

These NIH Guidelines supersede those of January 1980, and will be in effect until further notice.

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I. Scope of the Guidelines

I–A. *Purpose.* The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B. *Definition of Recombinant DNA Molecules.* In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the republication of those described in (i) above.

I–C. *General Applicability.* See Section IV–B.

I–D. *Prohibitions.* The following experiments are not to be initiated at the present time:

I–D–1. Formation of recombinant DNAs derived from the pathogenic organisms classified (*1*) as Class 4 or 5 (*2*) or from cells known (*2A*) to be infected with such agents, regardless of the host-vector system used.

I–D–2. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxins potent for vertebrates (*2A*) (e.g., botulinum or diphtheria toxins; venoms from insects, snakes, etc.).

I–D–3. (Deleted).

I–D–4. Deliberate release into the environment of any organism containing recombinant DNA.

I–D–5. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally, if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture. (*2A*)

I–D–6. Large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNAs, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established (*a*). (See Section IV–E–1–b–(3)–(d).)

I–D (1–6). Experiments in Categories I–D–1 to I–D–6 may be expected (*4*) from the prohibitions (and will at that time be assigned appropriate levels of physical and biological containment) provided that these experiments are expressly

approved by the Director, National Institutes of Health (NIH), with advice of the Recombinant DNA Advisory Committee (RAC), after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(e).)

Experiments in Categories I–D–1, I–D–2, I–D–5, and experiments involving "wild type" host-vector systems are excepted from the prohibitions, provided that these experiments are designed for risk-assessment purposes and are conducted within the NIH high-containment facilities located in Building 41–T on the Bethesda campus and in Building 550 located at the Frederick Cancer Research Center. The selection of laboratory practices and containment equipment for such experiments shall be approved by the Office of Recombinant DNA Activities (ORDA) following consultation with the RAC Risk Assessment Subcommittee and the NIH Biosafety Committee. ORDA shall inform RAC members of the proposed risk-assessment projects at the same time it seeks consultation from the RAC Risk Assessment Subcommittee and the NIH Biosafety Committee. If a major biohazard is determined, the clones will be destroyed after the completion of the experiment rather than retaining them in the high containment facility. Other clones that are non-hazardous or not of major hazard will be retained in the high containment.

I–E. *Exemptions.* It must be emphasized that the following exemptions (*4*) are not meant to apply to experiments described in the Sections I–D–1 to I–D–5 as being prohibited. In addition, any recombinant DNA molecules involving DNA from Class 3 organisms (*1*) or cells known to be infected with these agents, or any recombinant DNA molecules which increase the virulence and host-range of a plant pathogen beyond that which occurs by natural genetic exchange, are not exempt unless specifically so designated by NIH under Section I–E–5.

The following recombinant DNA molecules are exempt from these Guidelines, and no registration with NIH is necessary:

I–E–1. Those that are not in organisms or viruses. (*5*)

I–E–2. Those that consist entriely of DNA segments from a single nonchromosomal or viral DNA source, though one or more of the segments may be a synthetic equivalent.

I–E–3. Those that consist entirely of DNA from a prokaryotic host, including its indigenous plasmids or viruses, when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also those that consist entirely of DNA from a eukaryotic host, including its chloroplasts, mitochondria, or plasmids (but excluding viruses), when propagated only in that host (or a closely related strain of the same species).

I–E–4. Ceratin specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

I–E–5. Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities; National Institutes of Health, Bethesda, Maryland, 20205.

I–F. *General Definitions.* See section IV–C.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs. (*6–19*) The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) a set of standard practices that are generally used in microbiological laboratories, and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard.

Experiments on recombinant DNAs, by their very nature, lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector*, or *vehicle*, (plasmid or virus) for specific hosts or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately here in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures and that investigators and institutuional biosafety committees recommend changes in the Guidelines to permit their use.

II–A. *Standard Practices and Training.* The first principle of containment is a strict adherence to good microbiological practices. (*6–15*) Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction. (see Sections IV–D–1–g, IV–D–5–d and IV–D–8–b.). This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments, so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The principal investigator must ensure that everyone in the laboratory is familiar with both the potential hazards of the

work and the emergency plan. (See Sections IV–D–5–e and IV–D–3–d.) If a research group is working with a known pathogen where there is an effective vaccine it should be made available to all workers. Where serological monitoring is clearly appropriate it shall be provide. (See Sections IV–D–1–h and IV–D–8–c.)

II–B. *Physical Containment Levels.* The objective of physical containment is to confine organisms containing recombinant DNA molecules, and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as P1, P2, P3, and P4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms. For example, the "Classification of Etiologic Agents on the Basis of Hazard,"(*7*) prepared by the Centers for Disease Control, describes four general levels which roughly correspond to our descriptions for P1, P2, P3, and P4; and the National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our P2, P3, and P4 levels.(*8*)

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide P3 and P4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the Recombinant DNA Advisory Committee to other combinations which achieve an equivalent level of containment. (See Section IV–E–1–b–(2)–(b).) Additional material on physical containment for plant host-vector systems is found in Sections III–C–3 and III–C–4.

II–B–1. *P1 Level.*

II–B–1–a. *Laboratory Practices.*

II–B–1–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–1–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–1–a–(3). All biological wastes shall be decontaminated before disposal. Other contaminated materials, such as glassware, animal cages, and laboratory equipment, shall be decomtaminated before washing, reuse, or disposal.

II–B–1–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–1–a–(5). Eating, drinking, smoking, and storage of foods are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–1–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–1–a–(7). Care shall be taken in the conduct of all procedures to minimize the creation of aerosols.

II–B–1–a–(8). Contaminated materials that are to be decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–1–a–(9). An insect and rodent control program shall be instituted.

II–B–1–a–(10). The use of laboratory gowns, coats, or uniforms is discretionary with the laboratory supervisor.

II–B–1–a–(11). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–1–a–(12). The laboratory shall be kept neat and clean.

II–B–1–b. *Containment Equipment.* Special containment equipment is not required at the P1 level.

II–B–1–c. *Special Laboratory design.* Special laboratory design is not required at the P1 level.

II–B–2. *P2 Level.*

II–B–2–a. *Laboratory Practices.*

II–B–2–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–2–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–2–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a means demonstrated to be effective before washing, reuse, or disposal.

II–B–2–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–2–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–2–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–2–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–2–a–(8). Contaminated materials that are to be steam sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–2–a–(9). Only persons who have been advised of the nature of the research being conducted shall enter the laboratory.

II–B–2–a–(10). The universal biohazard sign shall be posted on all laboratory access doors when experiments requiring P2 containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–2–a–(11). An insect and rodent control program shall be instituted.

II–B–2–a–(12). The use of laboratory gowns, coats, or uniforms is required. Laboratory clothing shall not be worn to the lunch room or outside of the building in which the laboratory is located.

II–B–2–a–(13). Animals not related to the experiment shall not be permitted in the laboratory.

II–B–2–a–(14). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–2–a–(15). The laboratory shall be kept neat and clean.

II–B–2–a–(16). Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

II–B–2–b. *Containment Equipment.* Biological safety cabinets (20) shall be used to contain aerosol-producing equipment, such as blenders, lyophilizers, sonicators, and centrifuges, when used to process organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol. For example, a centrifuge may be operated in the open if a sealed head or safety centrifuge cups are used.

II–B–2–c. *Special Laboratory Design.* An autoclave for sterilization of wastes and contaminated materials shall be available in the same building in which organisms containing recombinant DNA molecules are used.

II–B–3. *P3 Level.*

II–B–3–a. *Laboratory Practices.*

II–B–3–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–3–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–3–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials, such as glassware, animal cages, laboratory equipment, and radioactive wastes, shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–3–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–3–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–3–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–3–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–3–a–(8). Contaminated materials that are to be steam-sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–3–a–(9). Entry into the laboratory shall be through a controlled access area. Only persons who have been advised of the nature of the research being conducted shall enter the controlled access area. Only persons required on the basis of program or support needs shall be authorized to enter the laboratory. Such persons shall be advised of the nature of the research being conducted before entry, and shall comply with all required entry and exit procedures.

II–B–3–a–(10). Persons under 16 years of age shall not enter the laboratory.

II–B–3–a–(11). The universal biohazard sign shall be posted on the controlled access area door and on all laboratory doors when experiments requiring P3-level containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–3–a–(12). An insect and rodent control program shall be instituted.

II–B–3–a–(13). Laboratory clothing that protects street clothing (e.g., long-sleeve solid-front or wrap-around gowns, no-button or slipover jackets) shall be worn in the laboratory. Front-button laboratory coats are unsuitable. Laboratory clothing shall not be worn outside the laboratory and shall be decontaminated before it is sent to the laundry.

II–B–3–a–(14). Raincoats, overcoats, topcoats, coats, hats, caps, and such street outer-wear shall not be kept in the laboratory.

II–B–3–a–(15). Gloves shall be worn when handling materials requiring P3 containment. They shall be removed aseptically immediately after the handling procedure and decontaminated.

II–B–3–a–(16). Animals and plants not related to the experiment shall not be permitted in the laboratory.

II–B–3–a–(17). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–3–a–(18). Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–3–a–(19). The laboratory shall be kept neat and clean.

II–B–3–a–(20). If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring P3-level physical containment, they shall be conducted in accordance with all P3-level laboratory practices.

II–B–3–b. *Containment Equipment.*

II–B–3–b–(1) Biological safety cabinets (*20*) shall be used for all equipment and manipulations that produce aerosols—e.g., pipetting, dilutions, transfer operations, plating, flaming, grinding, blending, drying, sonicating, shaking, centrifuging—where these procedures involve organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol.

II–B–3–b–(2). Laboratory animals held in a P3 area shall be housed in partial-containment caging systems, such as Horsfall units (19A), open cages placed in ventilated enclosures, solid-wall and bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet radiation lamps and reflectors. (Note: Conventional caging systems may be used, provided that all personnel wear appropriate personal protective devices. These shall include, at a minimum, wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.)

II–B–3–b–(3). *Alternative Selection of Containment Equipment.*

Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P4 level of physical containment. Alternative combinations of containment safeguards are shown in Table I.

Table I.—*Combinations of Containment Safeguards*

Classification of experiment According to guidelines		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P3	HV3	P3	P3	P3	HV3
P3	HV3	P3	P3	P4	HV2
P3	HV2	P3	P3	P3	HV2
P3	HV2	P3	P3	P2	HV3

Table I.—*Combinations of Containment Safeguards*

Classification of experiment According to guidelines		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P3	HV2	P3	P3	P4	HV1
P3	HV1	P3	P3	P3	HV1
P3	HV1	P3	P3	P2	HV2

[1] See Section II-D for decription of biological containment.

II–B–3–c. *Special Laboratory Design.*

II–B–3–c–(1). The laboratory shall be separated by a controlled access area from areas that are open to unrestricted traffic flow. A controlled access area is an anteroom, a change room, an air lock or any other double-door arrangement that separates the laboratory from areas open to unrestricted traffic flow.

II–B–3–c–(2). The surfaces of walls, floors, and ceilings shall be readily cleanable. Penetrations through these surfaces shall be sealed or capable of being sealed to facilitate space decontamination.

II–B–3–c–(3). A foot-, elbow-, or automatically-operated hand-washing facility shall be provided near each primary laboratory exit area.

II–B–3–c–(4). Windows in the laboratory shall be sealed.

II–B–3–c–(5). An autoclave for sterilization of wastes and contaminated materials shall be available in the same building (and preferably within the controlled laboratory area) in which organisms containing recombinant DNA molecules are used.

II–B–3–c–(6). The laboratory shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential (i.e., from the controlled access area to the laboratory area). If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the laboratory area shall not be recirculated to other areas of the building unless the exhaust air is filtered by HEPA filters or equivalent. The exhaust air from the laboratory area can be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

II–B–3–c–(7). The treated exhaust-air from Class I and Class II biological safety cabinets [*20*]may be discharged either to the laboratory or to the outdoors. The treated exhaust-air from a Class III cabinet shall be discharged directly to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through a building exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinet and the building ventilation system.

II–B–4. *P4 Level.*

II–B–4–a. *Laboratory Practices.*

II–B–4–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–4–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity and immediately following spills of organisms containing recombinant DNA molecules.

II–B–4–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–4–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–4–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the P4 facility.

II–B–4–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–4–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–4–a–(8). Biological materials to be removed from the P4 facility in a viable or intact state shall be transferred to a nonbreakable sealed container, which is then removed from the P4 facility through a pass-through disinfectant dunk tank or fumigation chamber.

II–B–4–a–(9). No materials, except for biological materials that are to remain in a viable or intact state, shall be removed from the P4 facility unless they have been steam-sterilized (autoclaved) or decontaminated by a means demonstrated to be effective as they pass out of the P4 facility. All wastes and other materials as well as equipment not damaged by high temperature or steam shall be steam sterilized in the double-door autoclave of the P4 facility. Other materials which may be damaged by temperature or steam shall be removed from the P4 facility through a pass-through fumigation chamber.

II–B–4–a–(10). Materials within the Class III cabinets shall be removed from the cabinet system only after being steam-sterilized in an attached double-door autoclave or after being contained in a nonbreakable sealed container, which is then passed through a disinfectant dunk tank or a fumigation chamber.

II–B–4–a–(11). Only persons whose entry into the P4 facility is required to meet program or support needs shall be authorized to enter. Before entering, such persons shall be advised of the nature of the research being conducted and shall be instructed as to the appropriate safeguards to ensure their safety. They shall comply with instructions and all other required procedures.

II–B–4–a–(12). Persons under 18 years of age shall not enter the P4 facility.

II–B–4–a–(13). Personnel shall enter into and exit from the P4 facility only through the clothing change and shower rooms. Personnel shall shower at each egress from the P4 facility. Air locks shall not be used for personnel entry or exit except for emergencies.

II–B–4–a–(14). Street clothing shall be removed in the outer side of the clothing-change area and kept there. Complete laboratory clothing, including undergarments, head cover, shoes, and either pants and shirts or jumpsuits, shall be used by all persons who enter the P4 facility. Upon exit, personnel shall store this clothing in lockers provided for this purpose or discard it into collection hampers before entering the shower area.

II–B–4–a–(15). the universal biohazard sign is required on the P4 facility access doors and on all interior doors to individual laboratory rooms where experiments are conducted. The sign shall also be posted on freezers, refrigerators, or other units used to store organisms containing recombinant DNA molecules.

II–B–4–a–(16). An insect and rodent control program shall be instituted.

II–B–4–a–(17). Animals and plants not related to the experiment shall not be

permitted in the laboratory in which the experiment is being conducted.

II–B–4–a–(18). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–4–a–(19). Use of the hypodermic needle and syringe shall be avoided when alternate methods are available.

II–B–4–a–(20). The laboratory shall be kept neat and clean.

II–B–4–a–(21) If experiments involving other organisms which require lower levels of containment are to be conducted in the P4 facility concurrently with experiments requiring P4–level containment, they shall be conducted in accordance with all P4–level laboratory practices specified in this section.

II–B–4–b. *Containment Equipment.*

II–B–4–b–(1). Experimental procedures involvong organisms that require P4-level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure isolation suits.

II–B–4–b–(2). Laboratory animals involved in experiments requiring P4-level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [19A], open cages placed in ventilated enclosures, or solid-wall and -bottom cages covered by filter bonnets, or solid-well and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors) that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure suits.

II–B–4–b–(3). *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II

Table II.—*Combinations of Containment Safeguards*

Classification of experiment according to guidelines		Alternate combinations of physical and biological containment			
		Physical containment			Biological containment
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	
P4	HV1	P4	P4	P4	HV1
P4	HV1	P4	[2]P4	P3	HV2

[1] See Section II–D for description of biological containment.
[2] In this case gloves shall be worn, in addition to the clothing requirements specified in II–B–4–a–(14).

II–B–4–c. *Special Laboratory Design.*

II–B–4–c–(1). The laboratory shall be located in a restricted-access facility which is either a separate building or a clearly demarcated and isolated zone within a building. Clothing-change areas and shower rooms shall be provided for personnel entry and egress. These rooms shall be arranged so that personnel leave through the shower area to the change room. A double-door ventilated vestibule or ultraviolet air lock shall be provided for passage of materials, supplies, and equipment which are not brought into the P4 facility through the change room area.

II–B–4–c–(2). Walls, floors, and ceilings of the P4 facility are constructed to form an internal shell which readily allows vapor-phase decontamination and is animal- and insect-proof. All penetrations through these structures and surfaces ar sealed. (The integrity of the walls, floors, ceilings, and penetration seals should ensure adequate containment of a vapor-phase decontaminant under static pressure conditions. This requirement does not imply that these surfaces must be airtight.)

II–B–4–c–(3). A foot-, elbow-, or automatically-operated handwashing facility shall be provided near the door within each laboratory in which experiments involving recombinant DNA are conducted in openface biological safety cabinets.

II–B–4–c–(4). Central vacuum systems are permitted. The system, if provided, shall not serve areas outside the P4 facility. The vacuum system shall include in-line HEPA filters near each use point or service cock. The filters shall be installed so as to permit in-place decontamination and replacement. Water supply, liquid and gaseous services provided to the P4 facility shall be protected by devices that prevent backflow.)

II–B–4–c–(5). Drinking water fountains shall not be installed in laboratory or animal rooms of the P4 facility. Foot-operated water fountains are permitted in the corridors of the P4 facility. The water service provided to such fountains shall be protected from the water services to the laboratory areas of the P4 facility.

II–B–4–c–(6). Laboratory doors shall be self-closing.

II–B–4–c–(7). A double-door autoclave shall be provided for sterilization of material passing out of the P4 facility. The autoclave doors shall be interlocked so that both doors will not be open at the same time.

II–B–4–c–(8). A pass-through dunk tank or fumigation chamber shall be provided for removal from the P4 facility of material and equipment that cannot be heat-sterilized.

II–B–4–c–(9). All liquid effluents from the P4 facility shall be collected and decontaminated before disposal. Liquid effluents from biological safety cabinets and laboratory sinks shall be sterilized by heat. Liquid effluents from the shower and hand washing facilities may be activated by chemical treatment. HEPA filters shall be installed in all vents from effluent drains.

II–B–4–c–(10). An individual supply and exhaust-air ventilation system shall be provided. The system shall maintain pressure differentials and directional air flow as required to ensure inflow from areas outside the facility toward areas of highest potential risk within the facility. The system shall be designed to prevent the reversal of air flow. The system shall sound an alarm in the event of system malfunction.

II–B–4–c–(11). Air within individual laboratories of the P4 facility may be recirculated if HEPA filtered.

II–B–4–c–(12). The exhaust air from the P4 facility shall be HEPA filtered and discharged to the outdoors so that it is dispersed clear of occupied buildings and air intakes. The filter chambers shall be designed to allow *in situ* decontamination before removal and to facilitate certification testing after replacement.

II–B–4–c–(13). The treated exhaust-air from Class I and Class II biological safety cabinets(*20*) may be discharged directly to the laboratory room environment or to the outdoors. The treated exhaust-air from Class III cabinets shall be discharged to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through the P4 facility exhaust

air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinets of the facility exhaust air system.

II–B–4–c–(14). As noted in Section II–B–4–b–(1), the P4 facility may contain specially designed areas in which all personnel are required to wear one-piece positive-pressure isolation suits. Such areas shall be airtight. The exhaust-air from the suit area shall be filtered by two sets of HEPA filters installed in series, and a duplicate filtration unit and exhaust fan shall be provided. The air pressure within the suit area shall be less than that in any adjacent area. An emergency lighting system, communication systems, and power source shall be provided. A double-door autoclave shall be provided for sterilization of all waste materials to be removed from the suit area.

Personnel who enter this area shall wear a one-piece positive-pressure suit that is ventilated by a life-support system. The life-support system shall be provided with alarms and emergency backup air. Entry to this area is through an airlock fitted with airtight doors. A chemical shower area shall be provided to decontaminate the surfaces of the suit before removal.

II–C. *Shipment.* Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (§ 72.25, Part 72, Title 42, and §§ 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations (CFR)) as specified below:

II–C–1. Recombinant DNA molecules contained in an organism or virus requiring P1, P2, or P3 physical containment, when offered for transportation or transported, are subject to all requirements of § 72.25(c)(1—(5), Part 72, Title 42 CFR, and §§ 173.386–.388, Part 173, Title 49 CFR.

II–C–2. Recombinant DNA molecules contained in an organism or virus requiring P4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under II–C–1 and are also subject to § 72.25(c)(6), Part 72, Title 42 CFR.

II–C–3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research."

II–D. *Biological Containment.*

II–D–1. *Levels of Biological Containment.* In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) survival of the vector in its host outside the laboratory and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *H*ost-*V*ector, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used. Eukaryotic host-vector systems are considered in Part III.

II–D–1–a. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

II–D–1–a–(1). *EK1.* The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, ColE1, or derivatives thereof [*21–27*]) and variants of bacteriophage, such as lambda (*28–33*). The *E. coli* K–12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages, except as specified in Section III–0.

II–D–1–a–(2). *Other Prokaryotes.* Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Section II—D–2).

II–D–1–b. *HV2.* These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. *Specific systems:*

II–D–1–b–(1). For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequence of transmission of the cloned DNA fragment.

II–D–1–b–(2). For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

II–D–1–c. *HV3.* These are host-vector systems in which:

II–D–1–c–(1). All HV2 criteria are met.

II–D–1–c–(2). The vector is dependent on its propagation host or is highly defective in mobilizability. Reversion to host-independence must be less than $1/10^8$ per vector genome per generation.

II–D–1–c–(3). No markers conferring resistance to antibiotics commonly used clinically or in agriculture are carried by the vector, unless expression of such markers is dependent on the propagating host or on unique laboratory-controlled conditions or is blocked by the inserted DNA.

II–D–1–c–(4). The specified containment shown by laboratory tests has been independently confirmed by specified tests in animals, including primates, and in other relevant environments.

II–D–1–c–(5). The relevant genotypic and phenotypic traits have been independently confirmed.

II–D–2. *Certification of Host-Vector Systems.*

II–D–2–a. *Responsibility.* HV1 systems other than *E. coli* K–12, and HV2 and HV3 host-vector systems, may not be designated as such until they have been certified by the director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

Host-vector systems that are proposed for certification will be reviewed by the National Institutes of Health (NIH) Recombinant DNA Advisory Committee (RAC). (See Section IV–E–1–b–(1)–(c).) This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a Working Group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The Committee will then evaluate the report of the Working Group and any other available information at a regular meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems, where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH,

without review by the RAC. (See Section IV–E–1–b–(3)–(f).)

When new host-vector systems are certified, notice of the certification will be sent by the Office of Recombinant DNA Activities (ORDA) to the applicant and to all Institutional Biosafety Committees (IBCs) and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system. (See Section IV–E–1–b–(3)–(i).) If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system, or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

II–D–2–b. *Data To Be Submitted for Certification.*

II–D–2–b–(1). *HV1 Systems Other than E. Coli K–12.* The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity. (ii) A description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information. (iii) A general description of the range of experiments contemplated, with emphasis on the need for developing such an HV1 system.

II–D–2–b–(2). *HV2 Systems.* Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted (*33A, 33B*). In general, the following types of data are required: (i) Description of construction steps, with indication of source, properties, and manner of introduction of genetic traits. (ii) Quantitative data on the stability of genetic traits that contribute to the containment of the system. (iii) Data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment. (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions. (v) Data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation. (vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals (e.g., rodents). Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage λ in *E. coli* K–12 are available from ORDA.

II–D–2–b–(3). *HV3 Systems.* Putative HV3 systems must, as the first step in certification, be certified as HV2 systems. Systems which meet the criteria given above under II–D–1–(c)–1, II–D–1–(c)–2, and II–D–1–(c)–3 will then be recommended for HV3 testing. Tests to evaluate various HV2 host-vector systems for HV3 certification will be performed by contractors selected by NIH. These contractors will repeat tests performed by individuals proposing the HV2 system and, in addition, will conduct more extensive tests on conditions likely to be encountered in nature. The genotypic and phenotypic traits of HV2 systems will be evaluated. Tests on survival and transmissibility in and on animals, including primates, will be performed, as well as tests on survival in certain specified natural environments.

II–D–3. *Distribution of Certified Host-Vectors.* Certified HV2 and HV3 host-vector systems (plus appropriate control strains) must be obtained from the NIH or its designees, one of whom will be the investigator who developed the system. NIH shall announce the availability of the system by publication of notices in appropriate journals.

Plasmid vectors will be provided in a suitable host strain, and phage vectors will be distributed as small-volume lysates. If NIH propagates any of the host strains or phage, a sample will be sent to the investigator who developed the system or to an appropriate contractor, prior to distribution, for verification that the material is free from contamination and unchanged in phenotypic properties.

In distributing the certified HV2 and HV3 host-vector systems, NIH or its designee will (i) send out a complete description of the system; (ii) enumerate and describe the tests to be performed by the user in order to verify important phenotypic traits; (iii) remind the user that any modification of the system necessitates independent approval of the system by the NIH; and (iv) remind the user of responsibility for notifying ORDA of any discrepancies with the reported properties or any problems in the safe use of the system.

NIH may also distribute certified HV1 host-vector systems.

III. Containment Guidelines for Covered Experiments

Part III discusses experiments covered by the Guidelines. The reader must first consult Part I, where listings are given of prohibited and exempt experiments.

Containment guidelines for permissible experiments are given in Part III. For these experiments no registration with the National Institutes of Health (NIH) is necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene in the cloning vehicle and if so, what protein, and (e) the containment conditions specified by these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals: IBC review prior to initiation

of the experiment is not required for most experiments described in Section III–O. Prior IBC review is required for all other experiments described in the subsections of Part III.

Changes from the levels specified in Part III for specific experiments (or the assignment of levels to experiments not explicitly considered here) may not be instituted without the express approval of the Director, NIH. (See Sections IV–E–1–b–(1)–(a), IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In the classification of containment criteria for different kinds of recombinant DNAs, the stated levels of physical and biological containment are minimal for the experiments designated. The use of higher levels of biological containment (HV3<HV2<HV1) is encouraged if they are available and equally appropriate for the purposes of the experiment.

III–O. *Classification of Experiments Using E. coli K–12 and Saccharomyces cerevisiae Host-Vector Systems.* Most recombinant DNA experiments currently being done employ *E. coli* K–12 host-vector systems; others employ the *S. cerevisiae* host-vector systems. These are the systems for which we have the most experience and knowledge.

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems and prohibited (see Section I–D).

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems are exempt from the Guidelines (see Section I–E).

Experiments using *E. coli* K–12 host-vector systems and DNA from Class 3 organisms [1] or from cells known to be infected with these agents will be conducted at P3 containment or at a lower level as specified by NIH (See Section IV–E–1–b–2–(e)).

Other experiments using *E. coli* K–12 or laboratory strains of *S. cerevisiae* shall use P1 physical containment and, except as specified in the last paragraph of this section, an HV1 host-vector system [i.e., for experiments using *E. coli* K–12 (a) the *E. coli* host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or non-conjugative plasmids [49] shall be used as vectors. For experiments in *S. cerevisiae*, laboratory strains shall be used]. For these experiments review by the IBC prior to the initiation of the experiment is not required. An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express as a protein product the information carried in any gene derived from a eukaryotic organism or from any virus or viroid which infects a eukaryotic organism.

Experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4).

For those not on the Appendix A list but which exchange genetic information (*35*) with *E. coli*, experiments may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a non-conjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids, either autonomous or integrated, or generalized transducing phages.

III–O–1. *Experiments Involving Class 3 Organisms.* Experiments involving recombinant DNA from Class 3 organisms (*1*) or from cells known to be infected with these agents may be conducted at P3 containment in *E. coli* K–12 EK1 hosts (see Section III–O). Containment levels for all other experiments with Class 3 organisms or with recombinant DNA which increases the virulence and host range of a plant pathogen beyond that which occurs by natural genetic exchange will be determined by NIH. (See Section (IV–E–1–b–2–(e)).

III–A. *Classification of Experiments Using Certain HV1 and HV2 Host-Vector Systems.* Certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of this Section III–A. Those so classified as of publication of these revised Guidelines are listed in Appendix D. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

III–A–1. *Shotgun Experiments.* These experiments involve the production of recombinant DNAs between the vector and portions of the specified cellular source, preferably a partially purified fraction. Care should be taken either to preclude or eliminate contaminating microoganisms before isolating the DNA.

III–A–1–a. *Eukaryotic DNA Recombinants.*

III–A–1–a–(1). *Primates.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(2). *Other Mammals.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(3). *Birds.* P2 physical containment + an HV2 host-vector, or P3 + HV1.

III–A–1–a–(4). *Cold-Blooded Vertebrates.* P2 physical containment + an HV1 host-vector or P1 + HV2. If the eukaryote is known to produce a potent polypeptide toxin, (*34*) the containment shall be increased to P3 + HV2.

III–A–1–a–(5). *Other Cold-Blooded Animals and Lower Eukaryotes.* This large class of eukaryotes is divided into two groups:

III–A–1–a–(5)–a. Species that are known to produce a potent polypeptide toxin (*34*) that acts in vertebrates, or are known pathogens listed in Class 2, (*1*) or are known to carry such pathogens must use P3 physical containment + an HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked eukaryote genes, containment may be reduced to P3+HV1 or P2+HV2. Species that produce potent toxins that affect invertebrates or plants but not vertebrates require P2+HV2 or P3+HV1. Any species that has a demonstrated capacity for carrying particular pathogenic microorganisms is included in this group, unless the organisms used as the source of DNA have been shown not to contain those agents, in which case they may be placed in the following group. (*2A*)

III–A–1–a–(5)–(b). The remainder of the species in this class including plant pathogenic or symbiotic fungi that do not produce potent toxins: P2+HV1 or P1+HV2. However, any insect in this group must be either (i) grown under laboratory conditions for at least 10 generations prior to its use as a source of DNA, or (ii) if caught in the wild, must be shown to be free of disease-causing microorganisms or must belong to a species that does not carry microorganisms causing disease in vertebrates or plants. (*2A*) If these conditions cannot be met, experiments must be done under P3+HV1 or P2+HV2 containment.

III–A–1–a–(6). *Plants.* P2 physical containment + an HV1 host-vector, or P1+HV2. If the plant source makes a potent polypeptide toxin, (*34*) the containment must be raised to P3 physical containment + HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked plant genes, containment may be reduced to P3+HV1 or P2+HV2. (*2A*)

III–A–1–b. *Prokaryotic DNA Recombinants.* P2+HV1 or P1+HV2 for experiments with phages, plasmids and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. (*34*) P3+HV2 for experiments

with phages, plasmids and DNA from Class 2 agents. (*1*)

III–A–2–a. *Viruses of Eukaryotes* (summary given in Table III; see also exception given at asterisk at end of Appendix D).

III–A–2–a–(1). *DNA Viruses.*

III–A–2–a–(1)–(a). *Nontransforming viruses.*

III–A–2–a–(1)–(a)–(*1*). *Adeno-Associated Viruses, Minute Virus of Mice, Mouse Adenovirus (Strain FL, and Plant Viruses. (48)* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) subgenomic DNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(1)–(a)–(*2*). *Hepatitis B.*

III–A–2–a–(1)–(a)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for purified subgenomic DNA segments. (*38*)

III–A–2–a–(1)–(a)–(*2*)–(*b*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(a)–(*2*)–(*c*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants derived from purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*). *Other Nontransforming Member of Presently Classified Viral Families.(36)*

III–A–2–a–(1)–(a)–(*3*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with purified subgenomic DNA(*38*) segments or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*)–(*b*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(b). *Transforming Viruses.(37A)*

III–A–2–a–(1)–(b)–(*1*). *Herpes Saimiri, Herpes Ateles, and Epstein Barr Virus.(39)*

III–A–2–a–(1)–(b)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(1)–(b)–(*1*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with purified subgenomic DNA segments containing an entire transforming gene(*38*) or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(b)–(*1*)–(*c*). P3 physical containment + an HV1 host-vector, or P2 + HV2, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(b)–(*2*). *Other Transforming Members of Presently Classified Viral Families.(36)*

III–A–2–a–(1)–(b)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments(*38*)

III–A–2–a–(1)–(b)–(*2*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with the whole viral genome, (ii) subgenomic DNA segments containing an entire transforming gene, (iii) purified cDNA copies of viral mRNA,(*37*) or (iv) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2). *DNA Transcripts of RNA Viruses.*

III–A–2–a–(2)–(a). *Retroviruses.*

III–A–2–a–(2)–(a)–(*1*). *Gibbon Ape, Woolly Monkey, Feline Leukemia and Feline Sarcoma Viruses.(39)*

III–A–2–a–(2)–(a)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(2)–(a)–(*1*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified subgenomic DNA segments.(*38*) containing an entire transforming gene.

III–A–2–a–(2)–(a)–(*1*)–(*c*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) purified cDNA copies of viral mRNA,(*37*) or (iii) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2)–(a)–(*2*). *Other Members of the Family Retroviridiae.(36)*

III–A–2–a–(2)–(a)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(2)–(a)–(*2*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) subgenomic DNA segments containing an entire transforming gene, (ii) the whole viral genome, or (iii) purified cDNA copies of viral mRNA, (*37*) or (iv) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2)–(b). *Negative Strand RNA Viruses.* Pl physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(2)–(c). *Plus-Strand RNA Viruses.*

III–A–2–a–(2)–(c)–(*1*). *Types 1 and 2 Sabin Poliovirus Vaccine Strains and Strain 17D (Theiler) of Yellow Fever Virus.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(2)–(c)–(*2*). *Other Plus-Strand RNA Viruses Belonging to Presently Classified Viral Families. (36)*

III–A–2–a–(2)–(c)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified subgenomic cDNA segments. (*38*)

Table III.—*Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D*

[See text for full details]

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic [38]		Genomic[1]		cDNA from viral mRNA [37]
	Non-transforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
DNA:					
Nontransforming viruses:					
AAV, MVM, mouse adeno (strain FL)	P1+HV1		P1+HV1		P1+HV1
Plant viruses	P1+HV1		P1+HV1		P1+HV1
Hepatitis B	P1+HV1[38]		P2+HV2 or P3+HV1		P2+HV1
Other	P1+HV1[38]		P1+HV1		P1+HV1
Transforming viruses:					
Herpes Saimiri, H. Ateles and EBV [39]	P1+HV1[38]	P2+HV1	P2+HV2 or P3+HV1		P2+HV1

Table III.—*Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D*—Continued

[See text for full details]

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic [38]		Genomic[1]		cDNA from viral mRNA [37]
	Non-transforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
Other	P1+HV1[38]	P2+HV1	P2+HV1	.....	P2+HV1
RNA:					
Retroviruses:					
Gibbon ape, wooly monkey FeLV and FeSV [39].	P1+HV1[38]	P2+HV1	P2+HV2 or P3+HV1	.....	P2+HV2 or P3+HV1
Other	P1+HV1[38]	P2+HV1	P2+HV1	.....	P2+HV1
Negative-Strand RNA	P1+HV1	.....	P1+HV1	P1+HV1	P1+HV1
Plus-Strand RNA:					
Types 1 and 2 Sabin polio, 17D yellow fever vaccine strains.	P1+HV1	.....	P1+HV1	.....	P1+HV1
Other	P1+HV1[38]	.....	P2+HV1	.....	P2+HV1
Double-stranded RNA	P1+HV1	.....	.....	P1+HV1	P1+HV1
Plant viruses + viroids	P1+HV1	.....	P1+HV1	P1+HV1	P1+HV1
Intracellular viral DNA	[2]	[2]	[2]	.....	

[1] See exception given at asterisk at end of appendix D.
[2] See text.

III–A–2–a–(2)–(c)–(*2*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, or (ii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(2)–(d). *Double-Stranded Segmented RNA Viruses.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) mixtures of subgenomic cDNA segments, (ii) a specific subgenomic cDNA segment, or (iii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(2)–(e). *RNA Plant Viruses and Plant Viroids.* (*48*) P1l physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(3). *Intracellular Viral DNA.* Physical and biological containment specified for shotgun experiments with eukaryotic cellular DNA [see Section III–A–(1)–(a)] shall be used for DNA recombinants produced with integrated viral DNA or viral genomes present in infected cells.

III–A–2–b. *Eukaryotic Organelle DNAs.* P2 phycial containment + an HV1 host-vector, or P1l + HV2, for mitochondrial or chloroplast DNA from eukaryotes when the organelle DNA has been obtained from isolated organelles. Otherwise, the conditions given for shotgun experiments apply.

III–A–2–c. *Prokaryotic Plasmid and Phage DNAs.* The containment levels required for shotgun experiments with DNA from prokaryotes apply to their plasmids or phages (See Section III–A–1–b.)

III–A–3. *Lowering of Containment Levels for Characterized or Purified DNA Preparations and Clones.* Many of the risks which might conceivably arise from some types of recombinant DNA experiments, particularly shotgun experiments, would result from the inadvertent cloning of a harmful sequence. Therefore, in cases where the risk of inadvertently cloning the "wrong" DNA is reduced by prior enrichment for the desired piece, or in which a clone made from a random assortment of DNAs has been purified and the absence of harmful sequences established, the containment conditions for further work may be reduced. The following section outlines the mechanisms for such reductions.

III–A–3–a. *Purified DNA Other than Plasmids, Bacteriophages, and Other Viruses.* The formation of DNA recombinants from cellular DNAs that have been purified (*41*) and in which the absence of harmful sequences has been established (*3*) can be carried out under lower containment conditions than used for the corresponding shotgun experiment.(*42*). The containment may be decreased one step in physical containment (P4+P3; P3+P2; P2+P1) while maintaining the biological containment specified for the shotgun experiment, or one step in biological containment (HV3+HV2; HV2+HV1) while maintaining the specified physical containment. The Institutional Biosafety Committee (IBC) must review such a reduction and the approval of the IBC and of the NIH must be secured before such a reduction may be put into effect. IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–a to levels below P1+HV1, which requires prior NIH approval. (See Section IV–E–1–b–(3)–(e).)

III–A–3–b. *Characterized Clones of DNA Recombinants.* When a cloned DNA recombinant has been rigorously characterized and the absence of harmful sequences has been established (*3*) experiments involving this recombinant DNA may be carried out under lower containment conditions. Institutional Biosafety Committees (IBCs) may give approval for a single-step reduction in physical or biological containment on receipt of evidence of characterization of a clone derived from a shotgun experiment and its probable freedom from harmful genes. IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–b to levels below P1+HV1, or reduction of containment levels by more than one step, which also requires prior NIH approval. (See Section IV–E–1–b–3–(e).)

III–B. *Experiments with Prokaryotic Host-Vectors Other Than E. coli K–12*

III–B–1. *HV1 and HV2 Systems.* Certain certified HV1 and HV2 host-vector systems appear in Appendix D. The containment levels for these systems are given in the subsections of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, the classification of containment levels for experiments using them will be assigned by NIH.

III–B–2. *Return of DNA Segments to Prokaryotic Non-HV1 Host of Origin.* Certain experiments involving those prokaryotes that echange genetic information with *E. coli* by known physiological processes will be exempt from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4). For a prokaryote which can exchange genetic information(*35*) with *E. coli* under laboratory conditions but which is not on the list (Host A), the following type of experiment may be carried out under P1 conditions without Host A having been approved as an HV1 host: DNA from Host A may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host A by mobilization, transformation, or transduction and may then be propagated in Host A in any desired vector under P1 conditions.

For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as an HV1 host: DNA from Host B may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host B and progagated in Host B under P1 conditions.(*43*)

III–B–3. *Non-HV1 Systems.* Containment levels for other classes of experiments involving non-HV1 systems may be approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is known to be pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment.(*2A*) Lower levels of physical containment may be assigned by NIH for specific donor-recipient combinations (See Section IV–E–1–b–2–(f)).

III–C. *Experiments with Eukaryotic Host-Vectors.*

III–C–1. *Vertebrate Host-Vector System. (44)* The subsections of Sections III–C–1–a, –b, –c and –d involve the use of specific viral vectors, namely polyoma, SV40, human adenoviruese 2 and 5, and mouse adenovirus strain FL, respectively. The subsections of Section III–C–1–e involve the use of all viral vectors including the specific viral vectors considered in the subsections of Sections III–C–1–a, –b, –c and –d, as well as any other viral vector. When the reader finds that the containment level given for specific experiment in a subsection of Section III–C–1–e is different from the containment level given in a subsection of Section III–C–1–a, –b, –c or –d, he may choose which of the two containment levels he wishes to use for the experiment.

III–C–1–a. *Polyoma Virus.*

III–C–1–a–(1). *Productive Virus-Cell Interactions.*

III–C–1–a–(1)–(a). Defective or whole polyoma virus genomes, with appropriate helper, if necessary, can be used in P2 conditions to propagate DNA sequences:

III–C–1–a–(1)–(a)–(*1*). from bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins; (*34*)

III–C–1–a–(1)–(a)–(*2*). from mice;

III–C–1–a–(1)–(a)–(*3*). from eukaryotic organisms that do not produce potent polypeptide toxins, (*34*) provided that the DNA segment is > 99% pure.

III–C–1–a–(1)–(b). Defective polyoma genomes with appropriate helper, if necessary, can be used in P2 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins.(*34)*

III–C–1–a–(1)–(C). Whole virus genomes with appropriate helper, if necessary, can be used in P3 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins.(*34).*

III–C–1–a–(1)–(d). Experiments involving the use of defective polyoma virus genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–a–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole polyoma virus genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the precribed physical and biological containment conditions (See Section IV–E–1–b–(3)–(c).)

III–C–1–b. *Simian Virus 40.*

III–C–1–b–(1). *Productive Virus-Cell Interactions.*

III–C–1–b–(1)–(a). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–b–(1)–(a)–(*1*). bacteria of Class 1 or Class 2,(*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins;(*34*)

III–C–1–b–(1)–(a)–(*2*). unifected African green monkey kidney cell cultures.

III–C–1–b–(1)–(b). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene with an appropriate helper, can be used in P3 conditions to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins(*34*) (Shotgun experiments or purified DNA).

III–C–1–b–(1)–(c). Experiments involving the use of defective SV40 genomes to progagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–b–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole SV40 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNS sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–c. *Human Adenoviruses 2 and 5.*

III–C–1–c–(1). *Productive Virus-Cell Interactions.*

III–C–1–c–(1)–(a). Human adenoviruses 2 and 5, rendered unconditionally defective by deletion of at least two essential genes, with appropriate helper, can be used in P3 conditions to propagate DNA sequences from:

III–C–1–c–(1)–(a)–(*1*). Bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent ploypeptide toxins; (*34*).

III–C–1–c–(1)–(a)–(2). Eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun experiments or purified DNA).

III–C–1–c–(1)–(b). Experiments involving the use of unconditionally defective human adenovirus 2 and 5 genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–c–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole human adenovirus 2 and 5 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d. *Murine Adenovirus Strain FL.*

III–C–1–d–(1). *Productive Virus-Cell Interactions.*

III–C–1–d–(1)–(a). Unconditionally defective murine adenovirus strain FL genomes, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–d–(1)–(a)–(*1*). Bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent polypeptide toxins; (*34*).

III–C–1–d–(1)–(a)–(*2*). Eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun experiments or purified DNA).

III–C–1–d–(1)–(b). Experiments involving the use of whole murine adenovirus strain FL genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(1)–(c). Experiments involving the use of unconditionally defective murine adenovirus strain FL genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole murine adenovirus strain FL genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–e. All Viral Vectors.

III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more that two-thirds of the genome of any eukaryotic virus [all viruses from a single Family (*36*) being considered identical (*50*)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–C–1–e–(1)–(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with a helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents *(1).*

III–C–1–e–(2). Experiments involving the use of other whole or defective virus genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms (and viruses), or as vectors to transform nonpermissive cells, will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

NIH will also review on a case-by-case basis *(45)* all experiments involving the use of virus vectors in animals and will prescribe the physical and biological containment conditions appropriate for such studies. (See Section IV–E–1–b–(3)–(c).)

III–C–1–f. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that hose (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physical containment for cells in culture since vertebrate cells in tissue culture inherently exhibit a very high level of containment. Recombinants involving viral DNA or experiments which require the use of the whole animals will be evaluated by NIH on a case-by-case basis. *(45)*

III–C–2. *Invertebrate Host-Vector Systems.*

III–C–2–a. *Insect Viral Vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA in vertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the recommended physical containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–2–b. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (See Section I–E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P1 physical containment for invertebrate cells in culture since invertebrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis. *(45)*

III–C–3. *Plant Viral Host-Vector Systems. (48)* The DNA plant viruses which could currently serve as vectors for cloning genes in plants and plant cell protoplasts are Cauliflower Mosiac Virus (CaMV) and its close relatives *(2A)* which have relaxed circular double-stranded DNA genomes with a molecular weight of 4.5×10^6, and Bean Golden Mosaic Virus (BGMV) and related viruses with small ($<10^6$ daltons) single-stranded DNA genomes. CaMV is spread in nature by aphids, in which it survives for a few hours. Spontaneous mutants of CaMV which lack a factor essential for aphid transmission arise frequently. BGMV is spread in nature by whiteflies, and certain other single-stranded DNA plant viruses are transmitted by leafhoppers.

The DNA plant viruses have narrow host ranges and are relatively difficult to transmit mechanically to plants. For this reason, they are most unlikely to be accidentally transmitted from spillage of purified virus preparations.

When these viruses are used as vectors in intact plants, or propagative plant parts, the plants shall be grown under P1 conditions—that is, in either a limited access greenhouse or plant growth cabinet which is insect-restrictive, preferably with positive air pressure, *(2A)* and in which an insect fumigation regime is maintained. Soil, plant pots, and unwanted infected materials shall be removed from the greenhouse or cabinet in sealed insect-proof containers and sterilized. It is not necessary to sterilize run-off water from the infected plants, as this is not a plausible route for secondary infection. When the viruses are used as vectors in tissue cultures or in small plants in axenic cultures, no special containment is necessary.

Infected plant materials which have to be removed from the greenhouse or cabinet for further research shall be maintained under insect-restrictive conditions. These measures provide an entirely adequate degree of containment. They are similar to those required in many countries for licensed handling of "exotic" plant viruses.

The viruses or their DNA may also be useful as vectors to introduce genes into plant protoplasts. The fragility of plant protoplasts combined with the properties of the viruses provides adequate safety. Since no risk to the environment from the use of the DNA plant virus/protoplast system is envisaged, no special containment is necessary, except as described in the following paragraph.

Experiments involving the use of plant genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–4. *Plant Host-Vector Systems Other than Viruses. (48)* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these guidelines (see Section I–E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P2 physical containment. The development of host-vector systems that exhibit a high level of biological containment, such as those using protoplasts or undifferentiated cells in culture, permit *(2A)* a decrease in the physical containment to P1.

Intact plants or propagative plant parts which cannot be grown in a standard P2 laboratory because of their large size may be grown under the P1 conditions described above in Section III–C–3, except that (i) sterilization of run-off water is required where this is a plausible route for secondary infection and (ii) the standard P2 practices are adopted for microbiological work, and (iii) negative air pressure should be employed in the greenhouse or growth chamber when infectious agents are used which generate airborne propagules.

III–C–5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems.*

Certain certified HV1 and HV2 host-vector system appear in Appendix D. The containment levels for these systems are given in the subsections of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, they may be added to Appendix D (and thus the containment levels for their use will be those of the subsections of Section III–A). Alternatively, at the time of their certification, another classification of containment levels for experiments using them may be assigned by NIH.

In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. *(43)*

Containment levels for other classes of experiments involving non-HV1 systems may be expressly approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

III–C–6. *Return of DNA Segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a vector and propagated in *E. coli* K–12 under P1 containment conditions. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. *(2A)*

III–C–7. *Transfer of cloned DNA Segments to Eukaryotic Organisms.*

III–C–7–a. *Transfer to Non-human Vertebrates.* DNA from any nonprohibited source [Section I–D], except for greater than one quarter of a eukaryotic viral genome, which has been cloned and propagated in *E. coli* under P1 conditions, may be transferred with the *E. coli* vector used for cloning to any eukaryotic cells in culture or to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study *(2A)*. Transfers to any other host will be considered by the RAC on a case-by-case basis *(45)*.

III–C–7–b. *Transfer to Higher Plants.* DNA from any nonprohibited source [Section I–D] which has been cloned and propagated in *E. coli* or *S. cerevisiae* under P1 conditions, may be transferred with the *E. coli* or *S. cerevisiae* vector used for cloning to any higher plant organisms (Angiosperms and Gymnosperms) and progagated under conditions of physical containment comparable to P1 and appropriate to the organism under study (*2A*). Intact plants or propagative plant parts may be grown undr P1 conditions described undr Section III–C–3. Containment must be modified to ensure that the spread of pollen, seed or other propagules is prevented. This can be accomplished by conversion to negative pressure in the growth cabinet or greenhouse or by physical entrapment by "bagging" of reproductive structures. Transfers to any other plant organisms will be considered on a case-by-case basis (*45*).

III–D. *Complementary DNAs.* Specific containment levels are given in Section III–A–2–a (see also last column of Table III) for complementary DNA (cDNA) of viral mRNA. For the other Sections of the Guidelines, where applicable, cDNAs synthesized *in vitro* are included within each of the above classifications. For example, cDNAs formed from cellular RNAs that are not purified and characterized are included under III–A–1, shotgun experiments; cDN's formed from purified and characterized RNAs are included under III–A–3; etc.

Due to the possibility of nucleic acid contamination of enzyme preparations used in the preparation of cDNAs, the investigator must employ purified enzyme preparations that are free of viral nucleic acid.

III–E. *Synthetic DNAs.* If the synthetic DNA segment is likely to (*2A*) yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmacologically active agent), the containment conditions must be as stringent as would be used for propagating the natural DNA counterpart.

If the synthetic DNA sequence codes for a harmless product,(2A) it may be propagated at the same containment level as its purified natural DNA counterpart. For example, a synthetic DNA segment which corresponds to a nonharmful gene of birds, to be propagated in *Saccharomyces cerevisiae*, would require P2 physical containment plus an HVI host-vector, or P1+ HV2.

If the synthetic DNA segment is not expressed *in vivo* as a polynucleotide or polypeptide product, the organisms containing the recombinant DNA molecule are exempt (*4*) from the Guidelines.

IV. Roles and Responsibilities

IV–A. *Policy.* Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgement are the key essentials to protection of health and the environment.

The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, it is the responsibility of the Institution and those associated with it to adhere to the *purpose* of the Guidelines as well as to their speifics.

Each Institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B. *General Applicability.* The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an Institution that receives any support for recombinant DNA research from NIH. This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an Institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

IV–C. *General Definitions.* The following terms, which are used throughout the Guidelines, are defined as follows:

IV–C–1. "DNA" means deoxyribonucleic acid.

IV–C–2. "Recombinant DNA" or "recombinant DNA molecules" means either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules which result from the replication of a molecule described in (i) above.

IV–C–3. (Deleted)

IV–C–4. "Institution" means any public or private entity (including Federal, State, and local government agencies).

IV–C–5. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–D–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–D–2 and –3.

IV–C–6. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–E–3.

IV–C–7. "Recombinant DNA Advisory Committee" or "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director of the National Institutes of Health concerning recombinant DNA research. The RAC shall be constituted as specific in Section IV–E–2.

IV–C–8. "Director, NIH" or "Director" means the Director of the National Institutes of Health and any other officer or employee of NIH to whom authority has been delegated.

IV–C–9. "Federal Interagency Advisory Committee on Recombinant DNA Research" means the committee established in October 1976 to advise the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH, on the coordination of those aspects of all Federal programs and activities which relate to recombinant DNA research.

IV–C–10. "Administrative Practices Supplement" or "APS" means a publication to accompany the NIH Guidelines specifying administrative procedures for use at NIH and at Institutions.

IV–C–11. "Laboratory Safety Monograph" or "LSM" means a publication to accompany the NIH Guidelines describing practices, equipment, and facilities in detail.

IV–D. *Responsibilities of the Institution.*

IV–D–1. Each Institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the Institution shall:

IV–D–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The Institution, as part of its general responsibilities for implementing the Guidelines, may establish additional procedures, as deemed necessary, to govern the Institution and its components in the discharge of its responsibilities under the Guidelines. This may include (i) statements formulated by the Institution for general implementation of the Guidelines and (ii) whatever additional precautionary steps the Institution may deem appropriate.

IV–D–1–b. Establish an Institutional Biosafety Committee (IBC) that meets the requirements set forth in Section IV–D–2 and carries out the functions detailed in Section IV–D–3.

IV–D–1–c. (Deleted)

IV–D–1–d. (Deleted)

IV–D–1–e. If the Institution is engaged in recombinant DNA research at the P3 or P4 containment level, appoint a Biological Safety Officer (BSO), who shall be a member of the IBC and carry out the duties specified in Section> IV–D–4.

IV–D–1–f. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–D–5, and assist investigators to do so.

IV–D–1–g. Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC.

IV–D–1–h. Determine the necessity, in connection with each project, for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The Laboratory Safety Monograph (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness.]

IV–D–1–i. Report within 30days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–D–2. *Membership and Procedures of the IBC.* The Institution shall establish an Institutional Biosafety Committee (IBC) meeting the following requirements:

IV–D–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any poitential risk to public health or the environment. At least two members (but not less than 20 percent of the membership of the committee) shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member (see Section IV–D–4).

IV–D–2–b. In order to ensure the professional competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons from disciplines relevant to recombinant DNA technology, biological safety, and engineering; (ii) the IBC include, or have available as consultants, persons knowledgeable in institution commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be a nondoctoral person from a laboratory technical staff.

IV–D–2–c. The Institution shall identify the committee members by name in a report to the NIH Office of Recombinant DNA Activities (ORDA) and shall include relevant background information on each member in such form and at such times as ORDA may require. (See the Administrative Practice Supplement for further guidance.)

IV–D–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been, or expects to be, engaged or has a direct financial interest.

IV–D–2–e. The Institution may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–D–3–a.)

IV–D–2–f. Central to implementation of the Guidelines is the review of experiments by the IBC. In carrying out this responsibility, the Institution shall comply with instructions and procedures specified in the Administrative Practices Supplement.

IV–D–2–g. Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

IV–D–2–h. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public (e.g., reports of Guideline violations and significant research-related accidents, and agency directives to modify projects). If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and the IBC's response.

IV–D–3. *Functions of the IBC.* On behalf of the Institution, the IBC is responsible for:

IV–D–3–a. Reviewing for compliance with the NIH Guidelines all recombinant DNA research conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–D–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–D–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

Note.—See Laboratory Safety Monograph (pages 187–190) for suggested guidance in conducting this review.

IV–D–3–b. Notifying the Principal Investigator (PI) of the results of their review.

IV–D–3–c. Reviewing periodically recombinant DNA research being conducted at the Institution, to ensure that the requirements of the Guidelines are being fulfilled.

IV–D–3–d. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the Laboratory Safety Monograph. Included are information and references on decontamination and emergency plans. NIH and the Centers for Disease Control are available to provide consultation, and direct assistance if necessary, as posted in the LSM. The Institution shall cooperate with the State and local public health departments, reporting any significant reseach-related illness or accident that appears to be a hazard to the public health.

IV–D–3–e. Reporting within 30 days to the appropriate institutional official and to the NIH Office of Recombinant DNA Activities (ORDA) any significant problems with or violations of the Gidelines, and any significant research-related accidents or illnesses, unless the IBC determines that the PI has done so.

IV–D–3–f. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH, (with the advice of the RAC when required) establishes the containment requirement.

IV–D–3–g. Performing such other functions as may be delegated to the IBC under Section IV–D–1.

IV–D–4. *Biological Safety Officer.* The Institution shall appoint a BSO if it engages in recombinant DNA research at the P3 or P4 containment level. The officer shall be a member of the Institutional Biosafety Committee (IBC), and his or her duties shall include (but need not be limited to):

IV–D–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–D–4–b. Reporting to the IBC and the Institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware, unless the BSO determines that the Principal Investigator (PI) has done so;

IV–D–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination, and investigating recombinant DNA research laboratory accidents;

IV–D–4–d. Providing advice on laboratory security;

IV–D–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See Laboratory Safety Monograph for additional information on the duties of the BSO.

IV–D–5. *Principal Investigator.* On behalf of the Institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–D–5–a. *PI—General.* As part of this general responsibility, the PI shall:

IV–D–5–a–(1). Initiate or modify no recombinant DNA research subject to the Guidelines until that research, or the proposed modification thereof, has been approved by the Institutional Biosafety Committee (IBC) and has met all other requirements of the Guidelines and the Administrative Practices Supplement (APS).

(Note.—No prior approval by the IBC is required for most experiments described in Section III–O. Modify containment and experimental protocol according to recommendations of the IBC.)

IV–D–5–a–(2). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–D–5–a–(3). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–D–5–a–(4). Be adequately trained in good microbiological techniques;

IV–D–5–a–(5). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–D–5–a–(6). Comply with shipping requirements for recombinant DNA molecules. (See Section II–C for shipping requirements, Laboratory Safety Monograph for technical recommendations, and the APS for administrative instructions and procedures. The requesting laboratory must be in compliance with the NIH Guidelines and under appropriate review by its IBC, and the sending investigator must maintain a record of all shipments of recombinant DNA materials.)

IV–D–5–b. *Submissions by the PI to NIH.* The PI shall:

IV–D–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–D–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines (see Sections I–E–4 and I–E–5 and, for additional information on procedures, the APS); and

IV–D–5–b–(3). Petition NIH, with concurrence of the IBC, for exceptions to the prohibitions under these Guidelines (see Section I–D and, for additional information on procedures, the APS).

IV–D–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review.

IV–D–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–D–5–c. *Submissions by the PI to the IBC.* The PI shall:

IV–D–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–D–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–D–5–c–(3). Submit the initial research protocol (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval, and

IV–D–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–D–5–d. *PI Responsibilities After Approval but Prior to Initiating the Research.* The PI is responsible for:

IV–D–5–d–(1). Making available to the laboratory staff copies of the approved protocols that describe the potential biohazards and the precautions to be taken;

IV–D–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–D–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–D–5–e. *PI Responsibilities During the Conduct of the Approved Research.* The PI is responsible for:

IV–D–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–D–5–e–(2). Investigating and reporting in writing to ORDA, the Biological Safety Officer (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–D–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–D–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity, and genotypic and phenotypic characteristics); and

IV–D–5–e–(5). *Publications.* PIs are urged to include, in all publications reporting on recombinant DNA research, a description of the physical and biological containment procedures employed.

IV–E. *Responsibilities of NIH.*

IV–E–1. *Director.* The Director, NIH, is responsible for (i) establishing the NIH Guidelines on recombinant DNA research, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has a number of responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public comment, with published response, before final action.

IV–E–1–a. *General Responsibilities of the Director, NIH.* The responsibilities of the Director shall include the following:

IV–E–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–E–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–E–2. The RAC's membership is specified in its charter and in Section IV–E–2;

IV–E–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–E–3; and

IV–E–1–a–(4). Maintaining the Federal Interagency Advisory Committee on Recombinant DNA Research established by the Secretary, HEW, for advice on the coordination of all Federal programs and activities relating to recombinant DNA, including activities of the RAC.

IV–E–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out the responsibilities set forth in this Section, the Director shall weigh each proposed action, through appropriate analysis and consultation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–E–1–b–(1). *The Director is responsible for the following major actions* (For these, the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 30 days before the meeting, and the Director will also publish the proposed actions in the **Federal Register** for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the **Federal Register** for 30 days of comment before final action is taken. The Director's final decision, along with response to the comments, will be published in the **Federal Register** and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision):

IV–E–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(c). Certifying new host-vector systems, with the exception of

minor modifications of already certified systems. [The standards and procedures for certification are described in Section II–D–2–a. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment. See the Administrative Practices Supplement (APS) for further information];

IV–E–1–b–(1)–(d). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these because they consist entirely of DNA segments from species that exchange DNA by known physiological processes, or otherwise do not present a significant risk to health or the environment (see Sections I–E–4 and –5 and the APS for further information);

IV–E–1–b–(1)–(e). Permitting exceptions to the prohibited experiments in the Guidelines, in order, for example, to allow risk-assessment studies; and

IV–E–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–E–1–b–(2). *The Director is also responsible for the following lesser* actions (For these, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the Recombinant DNA Technical Bulletin):

IV–E–1–b–(2)–(a). Interpreting and determining containment levels, upon request by ORDA;

IV–E–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–E–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines (see Section III);

IV–E–1–b–(2)–(d). Designating certain class 2 agents as class 1 for the purpose of these Guidelines (see Footnote 1 and Appendix B);

IV–E–1–b–(2)–(e). Assigning containment levels for experiments with recombinant DNA from Class 3 organisms(*1*) and assigning containment levels for experiments which increase the host-range and virulence of plant pathogens beyond that which occurs by natural genetic exchange; and

IV–E–1–b–(2)–(f). Assigning containment levels for experiments in which both donor and recipient are non-pathogenic prokaryotes (see Section III–B–3).

IV–E–1–b–(3). *The Director is also responsible for the following actions.* (The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin*):

IV–E–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–E–1–b–(3)–(b). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–E–1–b–(2)–(c).

IV–E–1–b–(3)–(c). Determining appropriate containment conditions upon case-by-case analysis of experiments explicity considered in the Guidelines but for which no containment levels have been set (see Footnote 45 in Part V; Sections III–C–1–a through –e; and Sections III–C–2 and –3);

IV–E–1–b–(3)–(d). Authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinat DNAs that are rigorously characterized and free of harmful sequences (see Footnote 3 and Section I–D–6);

IV–E–1–b–(3)–(e). Lowering containment levels for characterized clones or purified DNA (see Sections III–A–3–a and –b, and Footnotes 3 and 41);

IV–E–1–b–(3)–(f). Approving minor modifications of already certified host-vector systems. (The standards and procedures for such modifications are described in Section II–D–2); and

IV–E–1–b–(3)–(g). Decertifying already certified host-vector systems.

IV–E–1–b–(4). The Director shall conduct, support, and assist training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers, Principal Investigators, and laboratory staff.

IV–E–1–b–(5). The Director, at the end of 36 months from the time these Guidelines are promulgated, will report on the Guidelines, their administration, and the potential risks and benefits of this research. In doing so, the Director will consult with the RAC and the Federal Interagency Committee. Public comment will be solicited on the draft report and taken into account in transmitting the final report to the Assistant Secretary for Health and the Secretary, HEW.

IV–E–2. *Recombinant Advisory Committee.* The NIH Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH.

The members of the committee shall be chosen to provide, collectively, expertise in scientific fields relevant to recombinant DNA technology and biological safety—e.g., microbiology, molecular biology, virology, genetics, epidemiology, infectious diseases, the biology of enteric organisms, botany, plant pathology, ecology, and tissue culture. At least 20 percent of the members shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as nonvoting members. Nominations for the RAC may be submitted to the NIH Office of Recombinant DNA Activities, Bethesda, Md. 20205.

All meetings of the RAC will be announced in the **Federal Register**, including tentative agenda items, 30 days in advance of the meeting, with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–E–1–b–(1) may be added to an agenda after it appears in the **Federal Register.**

IV–E–2–a. *The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–E–1–b–(1)* and *–(2).*

IV–E–3. *The Office of Recombinant DNA Activities.* ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH, including Institutions, Biological Safety Committee, Principal Investigators, Federal agencies, State and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–E–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–E–3–a. Review and approval of Institutional Biosafety Committee (IBC) membership;

IV–E–3–b through IV–E–3–c–(3). (Deleted)

IV–E–3–c–(4). Publish in the **Federal Register:**

IV–E–3–c–(4)–(a). Announcements of Recombinant DNA Advisory Committee (RAC) meetings and agenda 30 days in advance, with publication of the Director's proposed decision for 30 days of public and Federal agency comment followed by a published response, on any action listed in Section IV–E–1–(b)–(1); and

IV–E–3–c–(4)–(b). Announcements of RAC meetings and agendas 30 days in advance on any action listed in Section IV–E–1–b–(2).

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone, upon request, at least 72 hours in advance of the meeting.

IV–E–3–c–(5). Publish the *Recombinant DNA Technical Bulletin;* and

IV–E–3–c–(6). Serve as executive secretary to the RAC.

IV–E–4. *Other NIH Components.* Other NIH components shall be responsible for:

IV–E–4–a. (Deleted)

IV–E–4–b. Certifying P4 facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary; and

IV–E–4–c. Announcing and distributing certified HV2 and HV3 host-vector systems (see Section II–E–3).

(See Administrative Practices Suplement for additional information on the administrative procedures of ORDA and other NIH components.)

IV–F. (Deleted)

IV–G. *Compliance.* As a condition for NIH funding of recombinant DNA research, institutions must ensure that such research conducted at or sponsored by the Institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–G–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an Institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of NIH funds for recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–3. Information concerning noncompliance with the Guidelines may be brought foward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The Institution, generally through the IBC, shall take appropriate action. The Institution shall forward a complete report of the incident to ORDA, recommending any further action indicated.

IV–G–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHEW and Public Health Service procedures shall govern.

IV–G–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

V. Footnotes And References

1. The reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. The list of organisms in each class, as given in this publication, is reprinted in Appendix B to these Guidelines.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may designate certain of the agents which are listed as Class 2 in the *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974, as Class 1 agents for the Purposes of these Guidelines (See section IV–E–1–b–(2)–(d)). An updated list of such agents may be obtained from the Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205.

The entire *Classification of Etiologic Agents on the Basis of Hazard* is in the process of revision.

For experiments using Vesicular Stomatitis virus (VSV), contact the NIH Office of Recombinant DNA Activities.

2A. In Parts I and III of the Guidelines, there are a number of places where Judgments are to be made. These include: "cells known to be infected with such agents" (Section I–D–1) "toxins potent for vertebrates" (Section I–D–2); "known to acquire it naturally" (Section I–D–5); "known to produce a potent polypeptide toxin * * * or known to carry such pathogens * * * not likely to be a product of closely linked eukaryote genes * * * shown not to contain such agents" (Section III–A–1–a–(5)–(a)); "shown to be free of disease causing microorganisms" (Section III–A–1–a–(5)–(b)); "close relatives" (Section III–C–3); and "procduce a potent polypeptide toxin" (Footnote 34).

In all these cases the principal investigator is to make the initial judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–D–7–a). In all these cases, this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–D–3–a–(1)). If the IBC wishes, any specific cases may be referred to the NIH Office of Recombinant DNA Activities as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–E–3), and ORDA may request advice from the Recombinant DNA Advisory Committee as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–E–1–b–(2)–(a)).

3. The following types of data should be considered in determining whether DNA recombinants are "characterize" and the absence of harmful sequences has been established: (a) the absence of potentially harmful genes (e.g., sequences contained in indigenous tumor viruses or sequences that code for toxins, invasins, virulence factors, etc., that might potentiate the pathogenicity or communicability of the vector and/or the host or be detrimental to humans, animals, or plants); (b) the type(s) of genetic information on the cloned sedment and the nature of transcriptional and translation gene products specified; (c) the relationship between the recovered and desired segment (e.g., hybridization and restriction endonuckease fragmentation analysis where applicable); (d) the genetic stabillity of the cloned fragment; and (e) any alterations in the biological properties of the vector and host.

4. In Section I–E, "exemptions" from the Guidelines are discussed. Such experiments are not covered by the Guidelines and need not be registered with NIH. In Section I–D on "prohibitions," the possibility of "exceptions" is discussed. An "exception" means that any experiment may be expressly released from a prohibition. At that time it will be assigned an appropriate level of physical and biological containment.

5. Care should be taken to inactivate recombinant DNA before disposal. Procedures for inactivating DNA can be found in the "Laboratory Safety Monograph: A Supplement to the NIH Guidelines for Recombinant DNA Research."

6. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education, and Welfare Publication No. CDC 75–8118.

1. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

8. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

9. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health.

10. *Biohazards in Biological Research* (1973). A. Hellman, M. N Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

11. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

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13. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York. pp. 169–204.

14. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

15. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

16. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

17. Kuehne, R. W. (1973). *Biological Containment Facility for Studying Infectious Disease.* Appl. Microbiol. 26–239–243.

18. Runkle, R. S., and G. B. Phillips (1969). *Microbial Containment Control Facilities.* Van Nostrand Reinhold, New York.

19. Chatigny, M. A., and D. I. Clinger (1969). *Contamination Control in Aerobiology.* In R. L. Dimmick and A. B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–263.

19A. Horsfall, F. L., Jr., and J. H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room* J. Bact. *40,* 569–580.

20. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment.

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28. Thomas, M., J. R. Cameron, and R. W. Davis (1974). *Viable Molecular Hybrids of Bacteriophage Lambda and Eukaryotic DNA.* Proc. Nat. Acad. Sci. USA *71,* 4579–4583.

29. Murray, N. E., and K. Murray (1974). *Manipulation of Restriction Targets in Phage Lambda to Form Receptor Chromosomes for DNA Fragments.* Nature *251,* 476–481.

30. Rambach, A., and P. Tiollais (1974). *Bacteriophage Having EcoRI Endonucleuse Sites Only in the Non-Essential Region of the Genome.* Proc. Nat. Acad. Sci., USA *71,* 3926–3930.

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32. Donoghue, D. J., and P. A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance,* Gene *1,* 209–227.

33. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA from Higher Organisms: The gt WES System.* Science *196.* 175–177.

33A. Skalka, A. (1978). *Current Status of Coliphage EK2 Vectors.* Gene *3,* 29–35.

33B. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1978). *Standardized Laboratory Tests for EK2 Certification.* Gene *3,* 36–38.

34. We are specifically concerned with the remote possibility that potent toxins could be produced by acquiring a single gene or cluster of genes. See also footnote 2A.

35. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms under Section I–E–4.

36. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979. (As noted in the Prohibition Section, the use of viruses classified [1] as Class 4 or 5 is prohibited.)

37. The cDNA copy of the viral mRNA must be >99% pure; otherwise as for shotgun experiments with eukaryotic cellular DNA.

37A. For the purpose of these Guidelines, viruses of the families *Papovavirida, Adenoviridae,* and *Herpetoviridae* (36) should be considered as "transforming" viruses. While only certain of these viruses have been associated with cell transformation *in vivo* or *in vitro,* it seems prudent to consider all members to be potentially capable of transformation. In addition, those viruses of the family *Poxviridae* that produce proliferative responses—i.e., myxoma, rabbit and squirrel fibroma, and Yaba viruses-should be considered as "transforming."

38. ≥99% pure (i.e., less than 1% of the DNA consists of intact viral genomes); otherwise as for whole genomes.

39. The viruses have been classified by NCI as "moderate-risk oncogenic viruses." See "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research" for recommendations on handling the viruses themselves.

40. (Deleted)

41. The DNA preparation is defined as "purified" if the desired DNA represents at least 99% (w/w) of the total DNA in the preparation, provided that it was verified by more than one procedure.

42. The lowering of the containment level when this degree of purification has been obtained is based on the fact that the total number of clones that must be examined to obtain the desired clone is markedly reduced. Thus, the probability of cloning a harmful gene could, for example, be reduced by more than 10^5-fold when a nonrepetitive gene from mammals was being sought. Furthermore, the level of purity specified here makes it easier to establish that the desired DNA does not contain harmful genes.

43. This is not permitted, of course, if it falls under any of the Prohibitions of Section I–D. Of particular concern here is prohibition I–D–5, i.e., "Deliberate transfer of a drug resistance trait to micro-organisms that are not known to acquire it naturally if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture."

44. Because this work will be done almost exclusively in tissue culture cells, which have no capacity for propagation outside the laboratory, the primary focus for containment is the vector. It should be pointed out that risk of laboratory-acquired infection as a consequence of tissue culture manipulation is very low. Given good microbiological practices, the most likely mode of escape of recombinant DNAs from a physically contained laboratory is carriage by an infected human. Thus the vector with an inserted DNA segment should have little or no ability to replicate or spread in humans.

For use as a vector in a vertebrate host cell system, an animal viral DNA molecule should display the following properties:

(i) It should not consist of the whole genome of any agent that is infectious for humans or that replicates to a significant extent in human cells in tissue culture. If the recombinant molecule is used to transform nonpermissive cells (i.e., cells which do not produce infectious virus particles), this is not a requirement.

(ii) It should be derived from a virus whose epidemiological behavior and host range are well understood.

(iii) In permissive cells, it should be defective when carrying an inserted DNA segment (i.e., propagation of the recombinant DNA as a virus must be dependent upon the presence of a complementing helper genome). In almost all cases this condition would be achieved automatically by the manipulations used to construct and propagate the recombinants. In addition, the amount of DNA encapsidated in the particles of most animal viruses is defined within fairly close limits. The insertion of sizable foreign DNA sequences, therefore, generally demands a compensatory deletion of viral sequences. It may be possible to introduce very short insertions (50–100 base pairs) without rendering the viral vector defective. In such a situation, the requirement that the viral vector be defective is not necessary, except in those cases in which the inserted DNA encodes a biologically active polypeptide.

It is desired but not required that the functional anatomy of the vector be known—that is, fL-re sLogld be a clear idea of the location within the molecule of:

(i) the sites at which DNA synthesis originates and terminates,

(ii) the sites that are cleaved by restriction endonucleases, and

(iii) the template regions for the major gene product.

If possible the helper virus genome should:

(i) be integrated into the genome of a stable line of host cells (a situation that would effectively limit the growth of the vector recombinant to such cell lines) or

(ii) consist of a defective genome, or an appropriate conditional lethal mutant virus, making vector and helper dependent upon each other for propagation.

However, neither of these stipulations is a requirement.

45. Review of NIH on a case-by-case basis means that NIH must review and set appropriate containment conditions before the work may be undertaken. NIH actions in such case-by-case reviews will be published in the *Recombinant DNA Technical Bulletin*.

46. Provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated on a case-by-case basis.

47. >99% pure; otherwise as for shotgun experiments.

48. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

49. A subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

50. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, where it finds the IBC meets the requirements set forth in Section IV–D–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–D–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–D–2–d is modified to that extent for purposes of these institutions.

VI–C. (Deleted)

VI–D. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Section II–D–2–a.

Institutions not otherwise covered by the Guidelines will not be subject to Section II–D–3 by complying with these procedures.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E. *Requests for Exceptions, Exemptions, Approvals.* Requests for exceptions from prohibitions, exemptions, or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exception, exemption, or other approval which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–F. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or processes * * * of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–F–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–F–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–F–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will

be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgement of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–F–4. Projects should be registered in accordance with procedures specified in the *Administrative Practices Supplement.* The following information will usually be considered publicly available information, consistent with the need to protect proprietary data:

a. The names of the institution and principal investigator.

b. The location where the experiments will be performed.

c. The host-vector system.

d. The source of the DNA.

e. The level of physical containment.

VI–F–5–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–F–5–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HEW Freedom of Information Officer, the responsible official under HEW regulations (45 CFR Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–F–5–c. ORDA will inform the institution of the HEW Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HEW, NIH, or ORDA.

VI–F–5–d. The HEW Freedom of Information Officer's determination will represent that official's judgement, as of the time of the determination, as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act, if at the time of the determination the records were in ORDA files and a request was received from them under the Act.

Appendix A—Exemptions Under I–E–4

Section I–E–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment (see Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A."

Under exemption I–E–4 of these revised Guidelines are recombinant DNA molecules that are (1) composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist. (Classification of *Bergey's Manual of Determinative Bacteriology,* eighth edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus nato*
7. *Bacillus amyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

One way transfer of *Streptococcus mutans* DNA into *Streptococcus sanguis.*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*

Appendix B—Classification of Micro-Organisms on the Basis of Hazard

I. Classification of Etiologic Agents on the Basis of Hazard (*1*)

A. Class 1 Agents

All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

B. Class 2 Agents

1. Bacterial Agents

Actinobacillus—all species except A. *mallei,* which is in Class 3
Arizona hinshawii—all serotypes
Bacillus anthracis
Bordetella—all species
Borrelia recurrentis, B. vincenti
Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani
Corynebacterium diptheriae, C. equi, C. haemolyticum, C. pseudotuberculosis C. pyogenes, C. renale
Diplococcus (Streptococcus) pneumoniae
Erysipelothrix insidiosa
Escherichia coli—all enteropathogenic serotypes
Haemophilus ducreyi, H. influenzae
Herellae vaginicola
Klebsiella—all species and all serotypes
Leptospira interrogans—all serotypes
Listeria—all species
Mima polymorpha
Moraxella—all species
Mycobacteria—all species except those listed in Class 3
Mycoplasma—all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae,* which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella—all species except those listed in Class 3
Salmonella—all species and all serotypes
Shigella—all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pyogenes
Treponema carateum, T. pallidum, and T. pertenue
Vibrio fetus, V. comma, including biotype El Tor, and *V. parahemolyticus*

2. Fungal Agents

**Actinomycetes (including *Nocardia* species and *Actinomyces species*

and Arachnia propionica)
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides brasiliensis

3. Parasitic Agents
Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

4. Viral, Rickettsial, and Chlamydial Agents
Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitis-associated antigen material
Herpes viruses—except *Herpesvirus simiae* (Monkey B virus) which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox, Monkey pox, and Whitepox*, which depending on experiments, are in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus*, which should be classified in Class 3 when inoculated into carnivores
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus) and Marburg virus*, which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vole rickettsia
Yellow fever virus, 17D vaccine strain

C. Class 3 Agents
1. Bacterial Agents
Actinobacillus mallei *
Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type B ("buffalo" and other foreign virulent strains *)
Pseudomonas pseudomallei *
Yersenia pestis

2. Fungal Agents
Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

3. Parasitic Agents
Schistosoma mansoni

4. Viral, Rickettsial, and Chlamydial Agents
***Alastrim, Smallpox, Monkey pox, and Whitepox*, when used *in vitro*
Arboviruses—all strains except those in Class 2 and 4 (Arboviruses indigenous to the United States are in Class 3, except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Psittacosis-Ornithosis-Trachoma group of agents
Rabies street virus, when used in inoculations of carnivores (See Class 2)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Vesicular stomatitis virus *
Yellow fever virus—wild, when used *in vitro*

D. Class 4 Agents
1. Bacterial Agents: None
2. Fungal Agents: None
3. Parasitic Agents: None
4. Viral, Rickettsial, and Chlamydial Agents
***Alastrim, Smallpox, Monkey pox, and Whitepox*, when used for transmission or animal inoculation experiments
Hemorrhagic fever agents, including *Crimean hemorrhagic fever, (Congo), Junin*, and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever*, and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

II. Classification of Oncogenic Viruses on the Basis of Potential Hazard (*2*)

A. Low-Risk Oncogenic Viruses
Rous Sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian Leukosis
Murine Leukemia
Murine Sarcoma
Mouse mammary tumor
Rat Leukemia
Hamster Leukemia
Bovine Leukemia
Dog Sarcoma
Mason-Pfizer Monkey Virus
Marek's
Guinea Pig Herpes
Lucke (Frog)
Adenovirus
Shope Fibroma
Shope Papilloma

B. Moderate-Risk Oncogenic Viruses
Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

III. Animal Pathogens (*3*)

A. Animal disease organisms which are forbidden entry into the United States by Law (CDC Class 5 agents)
1. Foot and mouth disease virus

B. Animal disease organisms and vectors which are forbidden entry into the United States by USDA Policy (CDC Class 5 Agents)
African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious

agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Footnotes and References of Appendix B

*A USDA permit, required for import and interstate commerce of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD. 20782.

**Since the publication of the classification in 1974 (*1*), the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

***All activities, including storage of variola and whitepox, are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Center for Disease Control, in Atlanta).

1. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.
2. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75-790.
3. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C—Exemptions Under I-E-5

Section I-E-5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV-E-1-b-(1)-(d).) Certain classes are exempt as of publication of these Revised Guidelines."

Under exemption I-E-5 of these Revised Guidelines are those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus).

Appendix D—HV1 and HV2 Host-Vector Systems Assigned Containment Levels as Specified in the Subsections of Section III-A

As noted above at the beginning of Section III-A, certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of Section III-A. Those so classified as of publication of these Revised Guidelines are listed below.

* HV1—The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:
(1) inl (inositolless) strains 37102, 37401, 46316, 64001 and 89601.
(2) csp-1 strain UCLA37 and csp-2 strains FS 590, UCLA101 (these are conidial separation mutants).
(3) eas strain UCLA191 (an "easily wettable" mutant).

HV1—Asporogenic mutant derivatives of *B. subtilis*. These derivatives must not revert to sporeformers with a frequency greater than 10^{-7}; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2—The asporogenic mutant derivative of *Bacillus subtilis*, ASB298, with the following plasmids as the vector component: pUB110, pC194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

Appendix E—Actions Taken Under the Guidelines

As noted in the subsections of Sections IV-E-l-b-(1) and IV-E-l-b-(2), the Director, NIH, may take certain actions with regard to the Guidelines after consideration by the RAC.

Some of the actions taken to date include the following:

1. The following experiment has been approved: The cloning in *B. subtilis*, under P2 conditions, of DNA derived from *Saccharomyces cerevisiae* using EK2 plasmid vectors provided that an HVl *B. subtilis* host is used.

2. Unmodified laboratory strains of *Neurospora crassa* can be used in all experiments for which HVl *N. crassa* systems are approved provided that these are carried out at physical containment one level higher than required for HVl. However, if P3 containment is specified for HVl *N. crassa*, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia, including the use of a biological safety cabinet.

3. P2 physical containment shall be used for DNA recombinants produced between members of the *Actinamycetes* group except for the species which are known to be pathogenic for man, animals, or plants.

4. Cloned desired fragments from any non-prohibited source may be transferred into *Agrobacterium tumefaciens* containing a Ti plasmid (or derivatives thereof), using a nonconjugative *E. coli* plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of an *Agrobacterium* plasmid, under containment conditions one step higher than would be required for the desired DNA in HVl systems (i.e. one step higher physical containment than that specified in the subsections of Section III-A). Transfer into plant parts or cells in culture would be permitted at the same containment level (one step higher).

5. *Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K-12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae,* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

6. *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K-12 or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions, using as vectors any plasmid indigenous to *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms.

7. Certain cloned segments of *Anabena* DNA may be transferred into *Klebsiella* under P2 physical containment.

8. Permission is granted to clone foot-and-mouth disease virus in the EKlCV host-vector system consisting of *E. coli* K-12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.

9. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under P1 + EK1 conditions

* These follow the assigned containment levels as specified in the subsections of Section III-A with one exception. This exception is that experiments involving complete genomes of eukaryotic viruses will require P3 + HV1 or P2 + HV2 rather than the levels given in the subsections of Section III-A.

in *Escherichia coli* K–12 and under P1 conditions in *Pseudomonas aeruginosa*.

10. Permission is granted to return to the host of origin *Helminthosporanium maydis* (race O) DNA which has been cloned in yeast strain SHY2 using the hybrid *E. coli*—yeast plasmid Y1p5. The cloned DNA may be returned to, and propagated in, *Helminthosporanium maydis* at the P2 level of physical containment.

11. Permission is granted to return *Schizophyllum commune* DNA (or yeast DNA) cloned in *Saccharomyces cerevisiae* with YR or 2 mu circle vectors to *Schizophyllum commune*. The cloned DNA may be returned to, and propagated in, *Schizophyllum commune* at the P2 level of physical containment.

12. Permission is granted to return *Wangiella dermatitidis* DNA to *Wangiella dermatitidis* using an HV2 certified *Saccharomyces/E. coli* hybrid vector. The *Wangiella dermatitidis* may be propagated at the P3 level of physical containment.

13. Certain specified clones derived from segments of the Foot-and-Mouth Disease Virus may be transferred from Plum Island Animal Disease Center to the facilities of Genentech, Inc., of South San Fransico, California. Further development of the clones at Genentech has been approved under P1 + EK1 conditions.

14. *Saccharomycopsis lipolytica* may be used as a host for tranformation with defined *Escherichia coli/Saccharomyces cerevisiae* hybrid plasmids and the hybrid plasmids may be used for cloning *S. lipolytica* DNA in *E. coli* and returning the cloned DNA to *S. lipolytica*.

15. Conjugative plasmids or transducing phages may be employed in recombinant DNA experiments when employing *E. coli* as host when a small defined segment of Adenovirus 2 DNA is employed as linker DNA.

16. Permission is granted to introduce DNA segments from aphid transmissible strains into non-aphid transmissible strains of Cauliflower mosaic virus in order to study the factors determining aphid transmissibility.

17. Permission is granted to return *Mucor racemosus* DNA which has been cloned in *Saccharomyces cerevisiae* host-vector systems to *Mucor racemosus*. In addition, permission is granted to transform *Mucor racemosus* with *S. cerevisiae* vectors with or without cloned *S. cerevisiae sequences*. These manipulations may be performed under P2 conditions.

18. *Schizosaccharomyces pombe* DNA may be cloned in *Schizosaccharomyces pombe* using approved HV1 *Saccharomyces cerevisiae/E. coli* hybrid plasmids as vectors under P1 containment conditions.

19. The pyrogenic endotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under P3 containment conditions.

20. A hybrid plasmid composed of, (1) *E. coli* plasmid pBR325, (2) the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, (3) the thiamine gene of *E. coli*, and (4) *Arabidopsis* DNA, may be transformed into *Agrobacterium tumefaciens* under P1 conditions. The *Agrobacterium tumefaciens* may subsequently be used to introduce the composite plasmid carrying *Arabidopsis* DNA and the *E. coli* thiamine gene into *Arabidopsis* plants under P1 containment conditions.

21. *Chlamydomonas reinhardi* can be used as a host for cloning defined DNA segments derived from *E. coli* and *Saccharomyces cerevisiae* using *E. coli/S. cerevisiae* hybrid vectors under P2 physical containment.

22. *Candida albicans* can be used as a host for cloning *Candida albicans* DNA following propagation of the DNA in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing an *E. coli-S. cerevisiae* hybrid plasmid vector or the yeast 2 micron plasmid.

23. The Rd strain of *Hemophilus influenzae* can be used as a host for the propagation of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Haemophilus* plasmid, pRSF0885, under P1 conditions.

24. *Zymomonas mobilis* may be used as a host under P2 conditions for transformation by recombinant DNA derived from *Pseudomonas* strains that are non-pathogenic for animals or plants, and that has been cloned in an *E. coli* K–12 host.

25. Protoplasts of *Streptosporangium brasiliense* may be transformed with a hybrid plasmid containing pBR322 plus a *Streptosporangium* plasmid into which have been incorporated specified DNA segments from *Streptomyces* species or an HV1 approved *Bacillus subtilis* cloning vector.

Appendix F—Certified HV2 Host-Vector Systems

While the Guidelines no longer specify the use of *E. coli* K–12 EK2 or *Saccharomyces cerevisiae* HV2 systems, investigators may wish to employ these systems in specific instances. The currently certified EK2 and HV2 systems are:

HV2—The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Plasmid Systems. The *E. coli* K–12 strain chi–1776. The following plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR327. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when used in *E. coli* chi–1776 or in the sterile yeast strains, SHY1, SHY2, SHY3 and SHY4: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector	*Host*
–gt*WES.–B*	DP50*supF*
–gt*WES.–B**	DP50*supF*
–gtZ]*vir.–B*	*E. coli* K–12
–gtALO.–B	DP50*supF*
Charon 3A	DP50 or DP50*supF*
Charon 4A	DP50 or DP50*supF*
Charon 16A	DP50 or DP50*supF*
Charon 21A	DP50*supF*
Charon 23A	DP50 or DP50*supF*
Charon 24A	DP50 or DP50*supF*

Dated: November 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government program contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its annoucements the number and title of affected individual programs for the guidance

of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

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